

REVISED ORDINANCES OF THE CITY OF WORCESTER

AN ORDINANCE ADOPTING THE REVISED ORDINANCES OF 1996 AND REPEALING THE REVISED ORDINANCES OF THE CITY OF WORCESTER, 1986, AS AMENDED

Be it ordained by the City Council of the City of Worcester,  
as follows:

§ 1. The fifteen chapters contained in the attached document are hereby adopted and ordained as the Revised Ordinances of the City of Worcester, Massachusetts.

§ 2. Unless otherwise provided herein, all ordinances of a general and permanent nature in force and effect on this date and including ordinances establishing and organizing city agencies, but except the Revised Ordinances of 1996, are hereby repealed.

§ 3. The repeal of all ordinances as accomplished by section two hereof shall not apply to:

a) any order, resolution or special ordinance adopted by authority of the city council; or,

b) the acceptance, by ordinance or otherwise, of any general or special act of the Great and General Court; or,

c) any ordinance, order or resolution authorizing the issuance or repayment of any indebtedness, or the continuance of any financial or contractual obligation of the city; or,

d) any ordinance, order or resolution granting any right, privilege or franchise to any person; or,

e) any executive order, directive or administrative policy issued by the city manager; or,

f) any part of the Salary Ordinance, the Zoning Ordinance (including the zoning map), or the Fire Prevention Code.

§ 4. Pursuant to Article Ten of the Home Rule Charter, General Laws chapter 43, § 5, and similar provisions of any previous city charter, nothing herein shall negate or relinquish any authority granted to the city by any special act, general law, prior charter provision, or any other legal authority in so far as the same may have provided the basis for the establishment of any city department or agency which is reestablished and continued Under Article Six of the Home Rule Charter or by any provision of the Revised Ordinances of 1996.

Ordained by the City Council **January 23, 1996** by a vote of eleven yeas and no nays.

## PREFACE

This volume represents the recodification of the Revised Ordinances of the city of Worcester as adopted on September 2, 1986 and amended from time to time thereafter. This is the first recodification of the general ordinances under the Home Rule Charter of the city, which was adopted by the voters on November 5, 1985 and became effective on January 1, 1987.

The 1996 recodification accomplishes three major goals: first, to place the ordinances which establish city agencies within their proper place under the reorganization article of the Home Rule Charter so as to clearly articulate the legal framework of the city government; second, to modify the delineation of chapters, articles, sections and subsections using a standard form of division; and third, to properly insert all amendments made to the Revised Ordinances since September 2, 1986.

The first goal of the 1996 recodification project arises from the provisions in the Home Rule Charter by which city agencies are established, reorganized or abolished. The reorganization article of the charter requires reorganization plans to be included with any ordinance recodification. Art. Six, § 6-1(c). City "agencies" (the charter term for city departments, offices, boards and commissions) may now be legally constituted pursuant to a charter "reorganization plan". Heretofore, city agencies could be established only by ordinance or executive order, or by acceptance of a local option law or by a special act of the legislature. The establishment of city agencies under authority of the reorganization article of the new charter necessitates a significant restructuring of that portion of the existing Revised Ordinances which established the various departments and agencies of the city. This restructuring has been accomplished by repealing the existing organizational ordinances and re-adopting them as reorganization plans. By so doing, the adoption of these revised ordinances itself effects a "reorganization" of the city structure and the charter-mandated procedure for adoption of reorganization plans must be followed during the process of ordination of this recodification so as to ensure the legal integrity of the ordinances and organizational structure of the city.

Additionally, in reviewing these organizational ordinances and previously adopted reorganization plans it became clear that many ordinance amendments of a regulatory nature were inserted into the organizational chapters of the ordinances and that many agencies no longer exist in any practical sense beyond the words on the pages on the ordinance book. Agencies which have had their entire budgets and salaried positions eliminated, or which have been overlooked in prior reorganization plan consolidations, have been deleted from this recodification of the city ordinances.

Thus, the 1996 recodification project has substantially re-structured the format of the ordinance "book" previously in effect. The components of this

new format are structured into three main parts: Part One, the Revised Ordinances, contains all of the general city ordinances and is divided into chapters one through fifteen; Part Two, Organization of City Agencies, contains all of the organizational plans for city agencies and is divided into articles one through forty; and, Part Three, the Appendix, contains items related to but not part of the Revised Ordinances (listings of the special acts applicable to the city and the local option laws accepted by the city; references to the Salary Ordinance, Zoning Ordinance and the Fire Prevention Code; and a reformatted edition of the city charter).

The second goal of the 1996 recodification project was to format the Revised Ordinances into standard divisions of chapters, articles, sections and subsections. Thus, the Revised Ordinances of 1996 are formatted with the regulatory ordinances divided into chapters and the organizational plans divided into articles, with each being designated by standard arabic numerals.

The chapters and articles are divided into sections which are designated by the lower case alphabet in parentheses. The sections are further divided into subsections which are designated by arabic numerals in parentheses.

The third goal of the 1996 recodification project was to insert amendments to the Revised Ordinances adopted since the last recodification in 1986. Other than the reformatting of the organizational and regulatory ordinances described above, there has been no general attempt to review the content of the ordinances in an effort to make substantive changes in any particular provision. However, some textual changes have been made due to advances in the law and decisions of the courts, to reflect new programs or changes in the operations of various city agencies, where references to reorganized agencies required modifications to any particular ordinance, or to delete references to organizational units no longer in existence.

Finally, this recodification has been performed on the city's new integrated computer system and enables the Revised Ordinances to be made available to the various city offices and departments through the computer network. With this availability, amendments to the Revised Ordinances can be made "on-line" as such amendments are ordained by the city council. City officials and departments will have up-to-date access to the text of the Revised Ordinances without the need to manually up-date ordinance books by continuously inserting ordinance amendments distributed by the printed paper system used to date. The official text of the Revised Ordinances will continue to be maintained under the care, custody and control of the city clerk, who may certify it, or portions thereof, as a "true copy" either from the traditional printed paper format or the computer-printed format, as may be appropriate.

For their work in preparing this recodification of the Revised Ordinances, I wish to acknowledge City Manager Thomas R. Hoover, City Clerk Robert J. O'Keefe, and all the city department heads and their staffs. Much of the work on this project was performed during calendar year 1995 and a special acknowledgement should be made to then Councilor-at-Large Robert J. Hennigan,

Jr., who, as chair of the Committee on Municipal Operations in 1995, reviewed this entire package and produced some helpful revisions. Special acknowledgement must also be made for Jane Bresnahan, Administrative Assistant, in the Law Department for her organizational and computer skills, as well as her patience and dedication.

David M. Moore, Esq.,  
City Solicitor

January, 1996

**CITY COUNCIL AND CITY OFFICIALS**

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**John B. Anderson, Vice-Mayor & Councilor-at-Large**

**John T. Buell, Esq., Councilor-at-Large**

**Paul P. Clancy, Councilor - District Three**

**Timothy J. Cooney, Councilor-at-Large**

**Wayne A. Griffin, Councilor - District Five**

**Konstantina B. Lukes, Esq., Councilor-at-Large**

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**Robert J. O'Keefe, Esq., City Clerk**

**Thomas R. Hoover, City Manager**

**David M. Moore, Esq., City Solicitor**

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#### § 1. Citation

These ordinances shall be known as the "Revised Ordinances of the City of Worcester" or the "Revised Ordinances of 1996" and, when reference is so made, shall include the text of chapters one through fifteen and, so far as apt, shall be construed as a continuation of the previously existing ordinances.

#### § 2. Definitions

In the construction of the Revised Ordinances the following rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the city council or the context of the ordinance.

"agency" - when used in reference to the city, shall mean any department, board, commission, or committee of the city established or reorganized as an organizational component of the city under Article VI of the Home Rule Charter.

"chair" - shall refer to the presiding officer of any group organized as a board, commission or committee by these Revised Ordinances.

"charter" - shall refer to the Home Rule Charter as defined below.

"chief" - when used in reference to the police department, shall mean the chief of police or any other official acting under authority of the chief; when used in reference to the fire department, shall mean the chief engineer of the fire department, or any other official acting under authority of the chief engineer.

"chief engineer" - shall refer to the administrative head of the fire department.

"city" - shall mean the city of Worcester.

"city council" - shall mean the duly elected legislative body of the city.

"city manager" - shall mean the chief executive and administrative officer of the city.

"commonwealth" - shall mean the Commonwealth of Massachusetts.

"department" - when used in reference to the city shall have the same meaning as "agency".

"G.L." - shall mean the General Laws of Massachusetts.

"gender" - a word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

"Home Rule Charter" - the home rule charter shall mean the legal instrument establishing and organizing the body politic and corporate known as the city which was adopted by the voters on November 5, 1985 and became effective on January 1, 1987.

"number" - a word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

"person" - shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

"preceding, following" - the words "preceding" and "following" mean next before and next after, respectively.

"Revised Ordinances" - the phrase "Revised Ordinances" shall refer to all ordinances of the city of Worcester codified herein and shall include any ordinance, schedule, attachment, and the like, as is referred to and incorporated herein.

"sidewalk" - shall mean that portion of the public way which lies between the property line and the portion of the public way dedicated for vehicular traffic and parking.

"signature" - if the written signature of a person is required, it may be in his or her own handwriting or, by a stamp, mark or facsimile impression made by a person expressly authorized by the signatory.

"street or way" the words "street" or "way" shall include streets, avenues, roads, alleys, lanes, viaducts and all other public ways in the city, including any bridge which is a part thereof, all of which shall have been decreed public by the city council, or have otherwise been dedicated to public use in accordance with law.

"term" - the word "term", when used with reference to an appointment to any public office provided for by these Revised Ordinances, shall mean the length of time specified or until a successor is appointed and qualified.

### **§ 3. Catchlines of Sections**

The catchlines of the several sections of the Revised Ordinances are intended as mere catchwords to indicate the contents of the section, and shall not be deemed to be taken to be titles of such sections, nor as any part thereof.

### **§ 4. Severability**

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of these Revised Ordinances are severable, and if any phrase, clause, sentence, paragraph or section of these Revised Ordinances shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of these Revised Ordinances.

### **§ 5. Enacting Style of Ordinances, Orders & Resolutions**

(a) In all votes in which the city council expresses anything to have the force and effect of law, the enacting style shall be, "Be it ordained by the city council of the city of Worcester, as follows:" which shall be once recited in each ordinance.

(b) In all votes in which the city council expresses anything by way of command, the style of expression shall be "Ordered".

(c) In all votes in which the city council expresses an opinion, principle, fact or purpose, the style of expression shall be "Resolved".

### **§ 6. City Seal**

(a) The seal of the city shall be of circular form, having in its center the figure of a heart encircled with a wreath, and having in the margin the words. "Worcester a Town, June 14, 1722; a City, February 29, 1848."

(b) The city clerk shall be the custodian of the seal of the city and is empowered to seal such instruments as city bonds, contracts, deeds and such other documents as are required to be sealed, or otherwise authenticated. Any document containing the words "executed under seal", or words of similar import, when executed by any duly authorized official of the city, shall have the same effect as a document containing the imprint of the city seal.

(c) Any deed, lease, indenture, conveyance or other document purporting to convey an interest in real property that may be given or required to be executed by the city shall, if signed by the city manager, be deemed to be sealed with the seal of the city.

(d) The seal of the city, eight inches in diameter, having the figure of the heart in its center colored red and having the encircling wreath colored green and the lettering colored gold, shall be prominently displayed on all municipally owned cars and trucks.

**§ 7. City Flag**

(a) The flag of the city shall bear on both sides a representation of the seal of the city upon a green field in the proportion of hoist to fly of one to one point nine. The diameter of the seal shall be one-half the hoist.

(b) The flag of the city may be displayed at such times and in similar manner as the flag of the United States of America and the flag of the Commonwealth of Massachusetts.

**§ 8. Legal Center of City**

(a) The legal center of the city shall be the point formed by the intersection of the south line of Front Street and the east line of Main Street, and all circles, of whatever radius, used for denoting distance from the central portion of the city, shall have a common center at such point.

(b) All orders which in any way refer to a mile circle or any other radius used for denoting distance, as above described, shall be so amended that the circle intended shall be in each case a circle of the given radius having the point for a center.

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**§ 1. Legislative and Executive Power**

The legislative powers of the city of Worcester shall be vested in the city council and the executive power shall be vested in the city manager.

**CITY COUNCIL**

**§ 2. Evaluation of the City Manager**

Unless otherwise voted by the city council, the sole item of business at the last meeting of the city council in June of each year shall be the evaluation by of the performance in office of the city manager. The city council may from time to time establish the format and procedure for the conduct of such evaluation.

### **§ 3. Standing Committees**

The standing committees of the city council shall not perform administrative or executive duties, but shall perform the duties usually performed by committees of deliberative bodies; and, in the performance of such duties, each committee on the affairs of the department relating to which it is constituted, shall at all proper times be afforded by the head of the department through the city manager such information and access to books, files and records as it may reasonably require to enable it to become acquainted and keep itself familiar with the condition and working of the various departments of the city government.

### **§ 4. City Council to Establish Rates of Fare**

When no other provision is made by law or by ordinance, the city council may establish the rates of fare and fees to be charged by any and all persons licensed for any service performed by virtue of such license, and the city council may revise, change or amend the rates of fare or fees at any time.

### **§ 5. City Council to Levy and Apportion Assessments**

When no other provision is made by law or by ordinance, the city council shall levy and apportion any and all assessments ordered to be levied by the city.

### **§ 6. City Council to Set Office Hours**

(a) The several officers of the city shall occupy such offices in City Hall or elsewhere and keep such office hours as the city council designates.

(b) All departments, boards, commissions and offices in City Hall shall maintain office hours of 8:30 a.m. to 5:00 p.m. daily except Saturdays, Sundays and legal holidays; provided, however, that the assessing, city clerk and treasury and tax collection departments and the election commission shall observe the following hours as far as direct service to the public:

Monday 8:45 a.m. to 5:00 p.m.  
Tuesday-Friday 8:45 a.m. to 4:15 p.m.

(c) All other departments, boards, commissions and offices located outside of City Hall, except the school department, shall maintain public office hours of not less than eight hours daily except for Saturday, Sundays and legal holidays.

(d) Where it would be in the public interest, the city manager is authorized to permit any department to extend its hours beyond those specified in this section, including Saturdays, Sundays and legal holidays, to provide direct service to the public.

(e) Where it would be in the public interest, or where there is an emergency affecting the health, safety or public welfare, the city manager is authorized to permit any agency to close its offices notwithstanding the provisions of paragraphs one and two.

(f) Any provision of any previous ordinance or order of the city council providing for office hours shall be superseded by provisions of this section exclusively.

(g) The city manager may promulgate rules and regulations to administer the provisions of this section.

## **CITY OFFICERS**

### **§ 7. Appointment of Officers and Employees**

To the extent provided by the Home Rule Charter and these Revised Ordinances, the city manager shall appoint all officers and employees to such offices and positions as may established under authority of these Revised Ordinances or as may be required by law or order, or by the provisions of gifts, wills and trusts, except as it is otherwise specially provided in such gift.

### **§ 8. Residency of Officers and Employees**

(a) Any individual who is promoted or appointed to any position listed on the **"Z" and "DH"schedules\*** of the Salary Ordinance, or is promoted to the position of deputy chief within the police or fire departments, shall become a domiciled resident of the city within one year from the date of such promotion or appointment and shall remain a domiciled resident of the city during the term of such employment or appointment.

**\*Amended April 23, 1996 (Merit Pay)- 6935.**

(b) The provisions of this section shall not apply: 1) to any individual who was an officer or employee of the city in any position or capacity on or before May 23, 1995; or, 2) to employees specifically exempted by statute or collective bargaining agreements from such a residency requirement.

### **§ 9. Oath of Office; Bond**

Every city officer before entering upon the discharge of the duties of any office provided for in these Revised Ordinances, shall be sworn to the faithful performance thereof, and shall give such bonds as the city council may from time to time require unless otherwise provided by law or order.

### **§ 10. Salaries**

Unless otherwise provided by law, all salaries and other compensation of officers and employees of the city, except those in the School Department, shall be governed exclusively by the provisions of the Salary Ordinance.

### **§ 11. Administrative Authority of Department Heads and Executive Officers**

(a) Subject to specific provisions of this chapter or rules and regulations of the city manager, department heads and executive officers shall have the authority and responsibility to direct, supervise, and control the operations of their department and its officers and employees, and to assign and schedule subordinate officers and employees in the performance of their duties.

(b) Department heads and executive officers in the administration of their departments shall be directly responsible to the city manager.

### **§ 12. Administration of Departments**

Whenever these Revised Ordinances impose generally upon any city officer or employee under the jurisdiction of the city manager the duty and responsibility to "administer" an agency of the city, and unless the context appears to the contrary, the following specific duties and responsibilities shall be intended:

(a) to have care, custody and control of all of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the agency by the city manager or the city council;

(b) to determine the priorities of the agency and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;

(c) to prepare, monitor and manage the budget for the agency, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;

(d) to prepare, implement, evaluate and improve agency operations, programs and projects in accordance with the goals and objectives established for the department by the city manager;

(e) to train agency employees and evaluate their performance in accordance with established standards or objectives;

(f) to implement established rules, policies and practices for the performance of employees and to impose appropriate disciplinary measures on those employees who do not perform in accordance with those rules, policies and practices;

(g) to prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested orally or in writing by the city manager;

(h) to perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;

(i) to ensure that all actions of the agency are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America.

### **§ 13. Budget Preparation and Submission**

Every department head and executive officer, board, commission or committee of the city shall be responsible for preparing their annual budget request in accordance with the requirements of chapter 44 of the General Laws and the city manager, and shall submit the same to the city manager no later than the first day of December prior to the beginning of the fiscal year of the city.

### **§ 14. Books and Records**

(a) All department heads and executive officers shall maintain books and records in such detail to furnish all information necessary for the operation of their agency and to permit analysis and report.

(b) All officers and clerks of boards, commissions or committees shall transfer to their successors in office all books, records and official papers of their office or board, commission or committee upon qualification of their successor.

#### **§ 15. Public Records**

(a) It is the intent of this section to provide for the orderly implementation of the statutes and regulations, as the same may be amended from time to time, governing the right of members of the public to inspect, examine and copy public records. This section shall be so interpreted, and words and phrases used herein shall be so defined, as to be consistent therein.

(b) It shall be the policy of the city that public records shall be made accessible to the public for inspection and examination at no charge. Any such inspection or examination shall be made within normal business hours.

(c) No person shall be permitted to remove or to take any public record from any city agency.

(d) The person who collects any charges for copying a public record shall furnish a receipt to the person charged and shall retain a copy thereof. All sums so received shall be paid over to the city treasurer and deposited in the general fund.

(e) The city manager is hereby authorized to issue appropriate rules and regulations, and to establish such charges for copying a public record, consistent herewith and with the applicable statutory and regulatory provisions.

#### **§ 16. Annual Reports**

(a) All officers, heads of departments, trustees, boards, commissions and committees of the city, shall make an annual report to the city manager on or before the first day of September of each year. Such report shall contain departmental statistics and other information relative to agency operations for the immediately preceding fiscal year, beginning July 1st of the preceding year and ending June 30 last, inclusive.

(b) Based on these reports, the city manager shall prepare the annual report on or before the first day of November next following. All agency reports shall be printed and bound in uniform style and size in one volume under the direction of the city manager. Upon completion of printing and binding, copies of the annual report shall be filed by the city manager with the city council. In addition, copies shall be distributed by the city manager as follows:

- Two copies to the Worcester Free Public Library
- One copy to the Worcester County Law Library
- One copy to the Library of the American Antiquarian Society
- One copy to the Library of the Worcester County Mechanics Association
- One copy to the Library of the Worcester Heritage Preservation Society
- One copy to the Library of the Worcester Historical Commission
- One copy to the library of each and every institution of higher learning in the City above high school level
- One copy to the Library of each and every public and private high school or preparatory school in the City
- One copy to the State House Library of the Commonwealth of Massachusetts in Boston

One copy to the Library of the Legislative Research Bureau, Legislative Research Council of the Commonwealth of Massachusetts in Boston  
One copy to the Library of the Massachusetts Municipal Association in Boston  
One copy to the Free Public Library of the City of Boston  
One copy to the Library of Congress in Washington, D.C.  
One copy to the Library of the Smithsonian Institution in Washington, D.C.

(c) The city manager shall assure that an adequate quantity of bound volumes of the annual reports are made available for distribution to the general public under such conditions and price as he may determine at his discretion.

#### **§ 17. Travel**

(a) Officers and employees shall be reimbursed for authorized travel expenses directly connected with their official business in accordance with and subject to the annual appropriation by the city council. No person shall be reimbursed for any out-of-state travel expenses unless prior approval was obtained by the city manager for such travel.

(b) The city manager shall promulgate rules and regulations regulating in- and out-of-state travel.

#### **§ 18. Officers to Permit or License**

Whenever in any ordinance anything is prohibited to be done without the permission or license of any officer, officers, or board, such officer, officers or board shall have the power to permit or license such thing to be done.

#### **§ 19. Hearings Officer Procedures**

(a) Civil service hearings officers appointed under chapter 312 of the Acts of 1975 shall have the power, in their conduct of hearings under chapter 31 for the appointing authority, to grant applications for subpoena of witnesses, to compel their attendance, to administer oaths, and in connection therewith to require the production of any evidence relating to any matter in question before them.

(b) The city manager may issue rules of procedure and practice for the conduct of hearings by civil service hearing officers.

## **BOARDS AND COMMISSIONS**

### **§ 20. Rules and Regulations**

The city manager may promulgate rules and regulations governing the conduct of meetings of boards, commissions or committees and the general administrative practices of the departments or agencies of the city, except the school committee and department.

### **§ 21. Executive Officers**

Unless otherwise provided by statute, the administration of an agency headed by a board or commission shall be vested in the executive officer of the board or commission. Said administration shall be in accordance with the general policies of the board or commission.

### **§ 22. Limitation on Re-Appointment of Members of Boards and Commissions**

Unless otherwise provided or required by statute, ordinance or the city charter, no person, having served thereon for the preceding six consecutive years, being a member of a board or commission of the city, shall be re-appointed to such board or commission; provided, however, that the city manager shall have the discretion to waive the provisions of this section in the best interests of the city.

### **§ 23. Vacancy in Offices**

Any officer or member of a board, commission or committee shall hold office, unless he resigns or is removed, until his successor in office has been duly qualified. A vacancy in any office occasioned by death, resignation or otherwise shall, unless specific provision is otherwise made, be filled in the manner provided for in the original election or appointment to such office and shall be for the unexpired term. When a member of a board or commission or committee has been absent from three or more consecutive meetings, without proper explanation, and such absence has been determined by the remaining members of such board, commission or committee to interfere in the effective discharge of its duties, the chair, upon the vote of the members, shall inform the city manager of such absence. Upon receipt of such notice, the city manager shall take steps to remove such individual from office and to fill such vacancy in the manner provided for in the original election or appointment to such office.

## **CITY FEES & CHARGES**

### **§ 24. Establishment of Fees**

Unless specifically provided otherwise by any general or special law or other provision of these Revised Ordinances, whenever any city officer or agency is empowered or authorized to issue a license, permit or certificate, to render a service, or to perform work for a person or a class of persons, such officer or agency may, from time to time, establish reasonable fees for all such licenses, permits and certificates, and may establish reasonable charges for all such services or work to be performed; provided, that this section shall apply only where the entire proceeds of any such fees or charges remain with the city; and any fee or charge established under authority of this

section shall not take effect until the city officer or agency establishing the fee or charge shall have filed a written notification and schedule of such fees and charges with the city manager and the city clerk.

#### **§ 25. Fee for Issuance of Affidavit of Voter Registration**

Every person who is furnished a copy of an affidavit of registration by the Board of Election Commissioners shall pay a fee therefor of two dollars per copy.

#### **§ 26. Affordable Housing Fee Waiver**

(a) Notwithstanding the provisions of any ordinance to the contrary, the city manager, with the approval of the city council, shall have the authority to waive the cost of any permit or approval fee for applicants proposing to construct qualified affordable housing units if: a) the applicant produces certification that the proposed units qualify as affordable housing under this section, and, b) the applicant pays a minimum fee of fifty dollars per department or office issuing permits or approvals. All requests for such relief shall be made to the city manager on an application form to be secured from the city manager's office. An applicant applying for a fee waiver under the provisions of this section must certify in writing under the pains and penalties of perjury that fees are not an eligible expense under any grant utilized to construct the qualified affordable housing units.

(b) For purposes of this section, a housing unit shall qualify as an affordable unit if it is subsidized, in whole or in part, by the federal or state government for low or moderate income persons, including the state chapter 667 program for the elderly, the state chapter 689 program for the disabled persons, the State chapter 705 program for disabled, State Housing Assistance for Rental Production (SHARP) Program, the State Tax Exempt Local Loans to Encourage Rental Housing (TELLER) Program, the state, county or municipal program which may be utilized for the production or restoration of housing for low or moderate income persons under the provisions of chapter 121B of the Mass. General Laws or other statute, regulation or ordinance. Only those units placed under rent restrictions by such programs shall qualify under this section as affordable housing units.

(c) All permits issued under this section shall be conditional upon the applicant maintaining such fee-waived housing units as qualified affordable housing units as defined in the second paragraph of this section. The applicant shall notify the city, in writing, sixty days in advance of its intention to convert any previously qualified affordable housing unit to market rate housing or any other non-qualifying use. Prior to any such conversion, the applicant shall pay the city the difference between the then current fees and the amount actually paid for any fee-waived permit issued under this section. For purposes of this section, "applicant" shall be the owner of the property where the units are to be constructed including any successors in interest.

(d) A housing unit shall also qualify under this section if a non-profit organization develops the property and organizes a construction process utilizing labor and materials volunteered or donated by members of the community and where a restrictive covenant is recorded on the title to the property limiting the use of the property to affordable housing purposes.

(e) In the event that the applicant proposes to construct both affordable housing units and market rate housing units in the same building and the permit or approval fee cannot be entirely attributable to either type of

housing unit, the normal fee shall be reduced only by the portion of affordable housing units relative to the aggregate number of housing units in the building.

**§ 27. Worcester Housing Authority Fee Waiver**

(a) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the city manager, with the approval of the city council, shall have the authority to waive the cost of any permit or approval fee relating to the construction, reconstruction, rehabilitation or repair of any building, structure or facility, which is:

- (i) located on land owned by the Worcester Housing Authority; and
- (ii) accessory to and, in support of, housing units owned and operated by the Worcester Housing Authority; and
- (iii) financed in whole or in part by state or federal grant funds.

Such buildings, structures and facilities shall include, but not be limited to: a gymnasium; recreation center; community center; heating, cooling or power plant; and the like.

(b) All requests for such relief shall be made to the city manager on an application form to be secured from the city manager's office.

(c) The approval of a request for a waiver of permit or approval fees under this ordinance shall be conditional upon the payment of a minimum fee of fifty dollars per department or office issuing permits or approvals.

**§ 28. Rental Rehabilitation Fee Waiver**

(a) Notwithstanding the provisions of any ordinance, rule, or regulation to the contrary, the city manager, with the approval of the city council, shall have the authority to waive the cost of any permit or approval fee for applicants proposing to rehabilitate rental housing units if:

- (i) the applicant produces certification that the proposed rental rehabilitation units qualify under this section and
- (ii) the applicant pays a minimum fee of Fifty Dollars per department or office issuing permits or approvals.

(b) All requests for such relief shall be made to the city manager on an application form to be secured from the city manager's office.

(c) For purposes of this section, a rental rehabilitation unit shall qualify for waiver if such rehabilitation is subsidized, in whole or in part, by the federal or State government. Only those units improved under a rental rehabilitation program shall qualify under this section fee waiver.

(d) In the event that the applicant proposes to engage in rehabilitation of units pursuant to a rental rehabilitation Agreement as well as market rate rehabilitation of units in the same building, and the permit or approval fee cannot be entirely attributable to either type of rehabilitation unit, the applicable fee shall be reduced only by the portion of rental rehabilitation program units relative to the aggregate number of rental units in the building.

**§ 29. Medical City Permit Fees**

(a) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the city manager shall have authority to establish a fee schedule for all permits and approvals issued by the city of Worcester (hereinafter collectively referred to as "permits"), or any department, agency, board or commission thereof, relative to the construction by The Fallon Clinic, Inc., or its agents, of a downtown medical center known as "Medical City" which shall include the following elements:

- (i) Hospital - a licensed acute care hospital with an initial authorized capacity of approximately 380 beds and containing not less than 450,000 square feet.
  - (ii) Medical clinic space - clinic facilities containing not less than 100,000 gross square feet.
  - (iii) Medical office space - medical office facilities for related medical uses, physician group practices and the like containing not less than 65,000 gross square feet.
  - (iv) Retail/Commercial - retail stores, service shops and commercial area as the same are authorized by the East Central Urban Renewal Plan, as amended, with a capacity to serve tenants, occupants, employees and visitors to the main uses containing not less than 3,000 gross square feet.
  - (v) Atrium space - lobby and circulation space in atrium fashion containing not less than 10,000 gross square feet.
  - (vi) Central mechanical space - building support systems and mechanical systems space containing not less than 10,000 gross square feet.
- (Such uses described above shall be contained within one structure containing not less than 700,000 gross square feet exclusive of the parking and access areas described below.)
- (vii) Structured parking - an off-street parking structure containing no less than 650 self parking spaces.
  - viii) Surface parking - surface parking facilities with the capacity for not less than 1,250 vehicles.

All such elements shall be located within the Medical City Sub-Planning Area of the East Central Urban Renewal Plan and bounded generally by Worcester Center Boulevard, Central Street, Washington Square and Foster Street.

(b) The city manager may establish such a fee schedule by contract with The Fallon Clinic, Inc., or its designated agent, by contract with the Worcester Redevelopment Authority, by executive order or by any other means he deems necessary and proper. Any fee schedule established by the city manager under authority of this ordinance shall require The Fallon Clinic, Inc., to pay a minimum permit fee of \$1,000,000.00 for all such permits. Such amount may be allocated to four annual payments commencing with the date of first application for a building permit for any of the above described project elements.

(c) Fees payments under this ordinance shall be made to the city manager, who shall issue appropriate documentation confirming payment of the fee. Any permit granting department, agency, board or commission of the city shall, upon presentation of such documentation by an applicant seeking a permit relative to the Medical City project elements described above, process the permit application without payment of additional fees and shall indicate on the permit application the following: "Fee paid pursuant to § 29, c. 2, R.O. 1996."

(d) This section shall be in effect until December 31, 1997.

**§ 29A. Central Street Hotel Permit Fees - (Ordained January 4, 2005 - 8623)**

(a) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the maximum aggregate fee for building code and inspectional permits issued by the Department of Code Enforcement relative to the initial construction by Fargo Management, LLC, or its agents, of a Hilton Garden Inn hotel consisting of approximately 199 rooms, including suite-type rooms, shall be fifty thousand (\$50,000) and the maximum aggregate fee for water and sewer connection and public works inspectional permits issued by the Department of Public Works shall be twenty-five thousand (\$25,000).

(b) Whenever the total permit fees governed by this ordinance shall reach such amounts, the head of the respective department shall notify the city manager. Thereafter, whenever the hotel developer, its contractor or other authorized person, files an application or any permit or inspection which would otherwise require the payment of a fee, the head of such department shall cause the permit to be issued with a notation "Fee Paid Pursuant to § 29A, c. 2, R.O. 1996" and shall send a copy of such permit, as issued, to the city manager.

(c) This section shall expire with the issuance of a permanent certificate of use and occupancy or December 31, 2007, whichever comes first. Upon the expiration of this section, the heads of the departments issuing permits under this ordinance shall prepare a written report to the city manager showing the total number and types of permits issued, the fees paid and the fees waived by operation of this ordinance.

**§ 29B CitySquare Project Permit Fees - (Ordained July 19, 2005 - 8670 and amended August 29, 2006 - 8838)**

(a) The city council hereby finds and declares that Worcester Renaissance, LLC, is prepared to invest \$470 million into downtown Worcester for the reconstruction of the former Worcester Center (a.k.a. Worcester Common Outlets) Mall property ("CitySquare Project") by demolishing large portions of the existing buildings, reestablishing the locations of public ways and spaces on and through the Project Property (as hereinafter defined), constructing 1.5 million square feet of new building space consisting of housing, commercial office, medical/clinical space, limited retail space and entertainment venues and renovating portions of the two existing office buildings and the remaining portions of the existing retail space and the existing parking garages (collectively, the "Private Project Elements").

(b) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the fees for construction, building or utility permits issued by the City of Worcester or any department, agency, board or commission thereof, (hereinafter collectively referred to as "permits"),

necessary for construction of the development program as stated in the attachment to a certain Memorandum of Agreement dated April 30, 2005 by and between the City of Worcester and Worcester Renaissance, LLC, and Worcester Towers, LLC, shall be aggregated and reduced to two million dollars.

(c) Except as otherwise provided herein, the fee established by this ordinance shall be paid by or on behalf of Worcester Renaissance, LLC, as follows:

(i) Worcester Renaissance, LLC shall make an initial fee payment of \$250,000 on the date that the First Disbursement is paid by the City under and pursuant to the Development Agreement between the City and Worcester Renaissance, LLC for the CitySquare Project (the "General Development Agreement"). Defined terms used in this section (c) shall have the meanings given such terms in the General Development Agreement.

(ii) Worcester Renaissance, LLC shall make a second fee payment of \$750,000 on the earlier of June 15, 2008 or upon the Commencement of the Enabling Work.

(iii) Worcester Renaissance, LLC shall make a third fee payment of \$1,000,000 on the earlier of June 15, 2009, or upon the Commencement of the Parking Garage.

Notwithstanding the foregoing, Worcester Renaissance, LLC shall not be obligated to make the fee payments set forth in Section (c)(ii) and (c)(iii) hereof, if, on or before the date such payment or payments are due, it has given a termination notice to the City in accordance with Section 4.18 of the General Development Agreement. If as a result of such a termination, the Enabling Work does not Commence, the City shall refund to Worcester Renaissance, LLC any payments made in accordance with Sections (c)(i) and (c)(ii) hereof, which refund shall be made not later than thirty (30) days after receipt of written notice from Worcester Renaissance, LLC (i) that the Enabling Work will not Commence and (ii) of termination of the General Development Agreement pursuant to Section 4.18 thereof; provided, however, that the City may deduct from the initial permit fee payment made pursuant to Section (c)(i) hereof, the actual costs incurred by the City for direct personnel expenses, excluding legal expenses.

The provisions of this ordinance shall apply to the Construction of the Private Project Elements and the Delegated Public Project Elements.

(d) Fee payments under this ordinance shall be made to the city manager, who shall issue appropriate documentation confirming payment of the fee. Any permit granting department, agency, board or commission of the city shall, upon presentation of such documentation by an applicant seeking a permit relative to the CitySquare Project, process the permit application without payment of additional fees and shall indicate on the permit application the following: "Fee paid pursuant to § 29B, c. 2, R.O. 1996."

(e) Anticipating that Worcester Renaissance, LLC, shall construct and complete the Private Project Elements in phases and that the tenants of Worcester Renaissance, LLC, shall thereafter finish construction of each tenantable space within the CitySquare Project, this permit fee reduction shall apply to any permits necessary for such tenant fit-out but shall expire upon the date of issuance of the first permit for use and occupancy for each such portion of the Project Property (as defined in the General Development Agreement). Notwithstanding the previous sentence, this ordinance shall expire on June 30, 2016 and the fees otherwise then in effect shall apply to any permits issued after such date.

**§ 29C Hunger Relief Fee Waiver - (Ordained February 28, 2006 - 8761)**

(a) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the city manager, upon a recommendation of the commissioner of health and human services, shall have the authority to waive the cost of any permit or inspection for applicants proposing to conduct a qualified emergency food service operation.

(b) For purposes of this section, an emergency food service operation shall meet the following criteria in order to qualify for the fee waiver authorized in paragraph (a):

1. The applicant must be a 26 U.S.C. §501(c)(3) non-profit corporation with a core mission and expressed purpose to alleviate hunger in the community, or a 26 U.S.C. §501(c)(3) faith-based organization customarily engaged in community outreach that includes hunger relief efforts, and

2. The applicant does not charge a fee to the recipients of the food distributed or served pursuant to such operation.

(c) Each application for a fee waiver under this section shall also include a written financial and social services impact statement describing the impact the waiver will have on its operation.

**§ 29D. Grand Palace Theatre Project Permit Fees - (Ordained January 2, 2007 - 8915)**

(a) The city council hereby finds and declares that Worcester Center for Performing Arts, Inc., a not-for-profit corporation, is prepared to undertake an approximately \$22 million renovation and restoration of the former Loew's Poli/Showcase Theater at 2-16 Southbridge Street in downtown Worcester into a first-class, 2,300 seat performing arts center known as the Grand Palace Theatre Project (herein after the "project").

(b) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the fees for construction, building or utility permits issued by the city of Worcester or any department, agency, board or commission thereof, (hereinafter collectively referred to as the "construction permits"), the city manager may waive the fee for such construction permits necessary for construction of the project totaling approximately \$195,000. The proponent of the project shall apply for such waivers to the city manager.

(c) Any permit granting department, agency, board or commission of the city shall, upon presentation by the project proponent of an application for fee waiver approved by city manager process the permit application without payment of fees.

d) This permit fee reduction shall apply to any permits necessary for the construction of project but this permit fee reduction shall expire upon the date of issuance of the first permit for use and occupancy of the premises where the project is located. Notwithstanding the previous sentence, this ordinance shall expire on June 30, 2009 and the fees otherwise then in effect shall apply to any permits issued after such date. Nothing herein can be construed to effect a waiver of any water or sewer use fees for water or sewer services.

**§ 29E. Handicapped Accessibility Ramp Waiver - (Ordained January 30, 2007 - 8961)**

(a) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the city manager, upon a recommendation of the commissioner of health and human services, shall have the authority to waive the fees associated with a building permit application when said permit is specific to the construction of handicapped accessible ramps that are to be constructed voluntarily.

(b) For purposes of this section, construction of handicapped accessible ramps shall meet the following criteria in order to qualify for the fee waiver authorized in paragraph (a):

1. The applicant must be providing gratuitous services to property owners in need of accessibility.

2. The applicant shall provide written documentation that the construction of said handicapped accessible ramps is provided at no cost to the property owner.

(c) Each application for a fee waiver under this section shall also include appropriate documentation confirming construction of a handicapped accessible ramp(s). Any permit granting department, agency, board or commission of the city shall, upon presentation of such documentation by an applicant seeking a permit relative to the waiver of a building permit fee described above, shall process the permit application without payment of fee and shall indicate on the permit application the following: "Fee waived pursuant to §29D, c. 2, R.O. 1996".

**MISCELLANEOUS**

**§ 30. Subrogation**

Whenever a police officer or fire fighter is indemnified under the provisions of General Laws, chapter 41, § 100 or § 111F, as the same may be amended from time to time, for an injury which was caused under circumstances creating a legal liability in some person, other than the said indemnitee, to pay damages in respect thereof, the city of Worcester shall be subrogated to the said indemnitee's cause of action and may proceed to enforce the same. Any sum recovered shall be retained by the city up to the amount which it paid as indemnity, and any excess shall be retained by or paid over to the indemnitee. For the purposes of this section, "excess" shall mean the amount by which the total sum received in payment for the injury, exclusive of interest and costs, exceeds the indemnity paid. The city shall be entitled to any costs expended by it, from the said recovery. Any interest received in any action brought pursuant to this section shall be apportioned between the city and the indemnitee in proportion to the amounts received by them respectively under this section.

**§ 31. Affirmative Action Program**

The city manager may establish an affirmative action program in accordance with law which shall be binding on all city agencies. The city manager may establish such rules and regulations as may be necessary to implement the affirmative action program and plan.

### § 32. Jobs Requirement for City Residents

(a) The city council finds and determines that there is unemployment in the city; that the subsequent multiplier effect of said unemployment in the city has a direct and deleterious effect upon all the neighborhoods and areas of the city, resulting in vandalism, crime, and the physical deterioration of neighborhoods and areas; that the city expends municipal funds for public buildings and public works contracts, a large portion of said money being derived from taxes paid by city residents; that a large portion of workers employed on such projects are individuals who do not reside in the city of Worcester; and that the jobs preference established by this section will tend toward the lessening of the deleterious effects cited herein.

(b) On any project for the construction, reconstruction, installation, demolition, maintenance or repair of any building, or public work, costing in excess of twenty-five thousand dollars, to be funded in whole or in part by city funds, or funds which, in accordance with a federal or state grant, program, or otherwise, the city expends or administers, or any such project to which the city is a signatory to the contract therefor, the provisions of this section shall apply and the same shall be referenced in every invitation to bid for such project and, the following paragraphs shall be contained in every resulting contract therefrom:

"It shall be a material breach of this contract if the contractor and each subcontractor on a craft-by-craft basis shall not at all times provide at least fifty percent of the total employee workerhours in each trade, at every tier, to be performed by bona fide residents of the city of Worcester. The contractor shall include such requirements and provide reference to this § 32 of chapter two of the Revised Ordinances of the city, in each subcontract entered into by him and shall require each subcontractor to include the same in all subcontracts at all tiers.

For purposes of this paragraph, work performed by persons filling apprenticeship and on-the-job training positions shall be included.

The contractor shall submit to the city's contract compliance officer weekly workforce charts, listing each of his workers, and those of his subcontractors of all tiers, by name, residential address, craft, job category, and hours worked.

Any person who provides false information regarding his or her residential address shall be subject to a fine of not more than three hundred dollars.

A waiver from the above requirements may, in certain circumstances, be granted in accordance with subsection (c) of § 32 of chapter two of the Revised Ordinances of the city."

(c) A waiver may be granted by the contract compliance officer in the equal employment opportunity office, to the extent that he may deem necessary, to a contractor or a subcontractor upon a proper showing by said contractor or subcontractor that it is not feasible for him, for good cause shown, to comply herewith despite having made a bona fide attempt to comply with the criteria and procedures previously established by the city. The city manager shall report all such waivers to the city council **on a quarterly basis**.\*.

\*Amended February 29, 2000 - 7806

(d) The city manager shall establish criteria and procedures for compliance herewith, and shall report to the city council on the same **whenever changes are made thereto\***.

**\*Amended February 29, 2000 - 7806**

(e) Where the provisions of any federal or state statute or regulation provide that no procedure or requirement shall be imposed which will operate to discriminate against the employment of labor from any other state, possession, or territory of the United States, the terms of this section shall not apply.

### **§ 33. Departmental Rules and Regulations Affecting the Public**

(a) Every agency of the city shall file with the city clerk a copy of any general rules or regulations promulgated by said agency, which affects the public.

(b) Annually in January, said agency shall file any amendments to said rules and regulations with the city clerk. The city clerk shall compile said rules and regulations in a public document and make copies available to the public. He shall file a copy of said document with the city manager and city council, the Worcester Free Public Library, the Worcester County Law Library, and the Worcester County Bar Association.

(c) The city manager may establish rules of procedure to implement this section.

### **§ 34. Redemption of Mortgaged Property**

Whenever any person having lawful authority to redeem any property mortgaged to the city shall pay to the city treasurer the amount due and payable by such mortgage, the city treasurer shall report the same in writing to the city manager. The city manager shall release, discharge or assign the mortgage without recourse to or liability of the city, and shall execute any deed or legal instrument that may be appropriate for such purpose. The city treasurer shall also report the amount of such payment in writing to the city auditor.

### **§ 35. Responsible Employer Ordinance - (Ordained September 16, 1997 - 7324)**

(a) The city council hereby finds and determines that the failure of certain construction firms awarded contracts funded by the city to include and enforce provisions requiring compliance with state laws governing the payment of prevailing wages, the provision of workers compensation coverage, and the proper classification of individuals as employees and not as independent contractors, as well as provisions concerning health insurance coverage and state-certified apprenticeship programs, is injurious to the life, health and happiness of individuals employed by such firms and is deleterious to the quality of life in the city where most of such individuals reside.

(b) Every contract awarded by the city under G.L. c. 149, S 44A(2) where the amount of the contract is more than one-hundred thousand dollars, and any subcontract awarded in connection with any such general contract where the amount of such subcontract is more than twenty-five thousand dollars, shall be deemed to incorporate by reference the provisions of sub-parts (1) through (6) of this subsection together with the provisions of subsections (c), (d) and (e) of this section.

(1) The bidder and all subcontractors under the bidder shall comply with the city residents jobs ordinance codified as S 32 of chapter two of the Revised Ordinances of 1996;

(2) The bidder and all subcontractors under the bidder shall comply with the requirements of G.L. c. 149 concerning the payment of prevailing wage rates to their employees;

(3) The bidder and all subcontractors under the bidder must maintain and participate in a bona fide apprentice training program as defined by G.L. c. 23, SS 11H & 11I for each apprenticeable trade or occupation represented in its workforce that is approved by the division of apprentice training of the department of labor and industries of the commonwealth and must abide by the apprentice to journeymen ratio for each trade prescribed therein in the performance of the contract;

(4) The bidder and all subcontractors under the bidder must furnish, at its expense, hospitalization and medical benefits for all individuals employed on the project or coverage which is comparable to the hospitalization and medical benefits provided by the health and welfare plans in the applicable craft recognized by G.L. c. 149, S 26, in establishing minimum wage rates;

(5) The bidder and all subcontractors under the bidder must maintain appropriate industrial accident insurance coverage in accordance with G.L. c. 152 for all individuals employed on the project;

(6) The bidder and all subcontractors under the bidder must properly classify individuals employed on the project as employees rather than independent contractors and comply with all laws concerning workers' compensation insurance coverage, unemployment taxes, social security taxes and income taxes as respects all such employees.

(c) All bidders and all subcontractors under such bidders who are awarded, or otherwise obtain, contracts from the city on projects governed by G.L. c. 149 S 44A(2), shall comply with the obligations described in sub-parts (1) through (6) of subsection (b) of this section for the entire duration of their work on the project and an officer of each such bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with these obligations.

(d) Any bidder or subcontractor under the bidder who fails to comply with any of the obligations described in sub-parts (1) through (6) of subsection (b) of this section for any period of time, **or fails to comply with the weekly certification obligations described in subsection (c) of this subsection \*** shall be subject to any or all of the following sanctions:

**\*Amended February 29, 2000 - 7805**

(1) temporary suspension of work on the project

until compliance is obtained; or,

(2) withholding by the city of payment due under the contract until compliance is obtained; or,

(3) permanent removal from any further work on the project; or,

(4) recovery by the city from the general contractor of 1/10 of 1% of the general contract or \$1,000.00, whichever sum is greater, in the nature of liquidated damages assessed for each week that the general contractor is in non-compliance or, if a subcontractor is in non-compliance, the recovery by the city from the general contractor as a back-charge against the subcontractor of 1/10 of 1% of the subcontract price, or \$400.00 whichever sum is greater, in the nature of liquidated damages assessed for each week that the subcontractor is in non-compliance.\*

**\*Ordained February 29, 2000 - 7805**

(e) In addition to these sanctions a general bidder or contractor shall be equally liable for any violation of the obligations described in sub-parts (1) through (6) of subsection (b) of this section committed by any of its subcontractors or sub-bidders, excepting only those violations which arise from work performed by subcontractors with subcontracts governed by G.L. c. 149, S44F. Any contractor or subcontractor who has been determined to have violated any of the provisions of subsections (b) or (c) of this section shall be barred from performing any work on any future contracts awarded by the city for six months for the first violation, three years for the second violation, and permanently for a third violation.

f) The provisions of this section shall not apply to construction projects for which the low general bid was less than one-hundred thousand dollars, or to work performed pursuant to subcontracts governed by G.L. 149, S44F where the bid for such subcontract was less than twenty-five thousand dollars.

**S 36. Brownfields Tax Abatement Agreements - (Ordained September 26, 2000 - 7950)**

In exercising the authority granted by section fifty-nine A of chapter fifty-nine of the General Laws, the city manager shall negotiate and approve any agreement relative to the abatement of real estate taxes under said section fifty-nine A. The city manager may designate one or more of his or her subordinates to conduct such negotiations; provided however, that the city manager shall in all cases retain the authority to approve such agreements; and provided further that, the city assessor shall be a signatory to any such contract.

CHAPTER THREE

PERSONNEL LEAVE ORDINANCE

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§ 1. Definitions

The following words and phrases, when used in this chapter, shall have the following meanings:

"authorized leave without pay" - the status of any employee whose absence from scheduled duty has been authorized without pay under the provisions of this chapter;

"continuous service" - paid full-time employment in the service of the city which is not interrupted by resignation, termination or dismissal. "Continuous service" shall include all leave with pay;

"full-time employee" - any person whose name appeared on and who received pay from a city payroll for personal services for a minimum of thirty hours per week, provided, however, for purposes of personal leave, as provided for in this chapter, a full-time employee shall be one who is regularly scheduled for a minimum of forty hours per week;

"holiday leave" - the status of any employee who is absent from duty and entitled to holiday leave pay in accordance with the statutes, ordinances, collective bargaining agreement, or rules and regulations governing legal holidays;

"intermittent or part-time employee" - any person whose name appeared on and who received pay from a city payroll for personal services, which may be regular or irregular recurrent employment, as the needs of the service require, for not less than thirty weeks, one hundred and fifty days, or twelve hundred hours in the aggregate during the twelve month preceding the first day of June in each year. This definition shall not apply to sick leave provision of this chapter;

"military leave" - the status of any employee who is absent from duty under the authority of G.L. c. 33, § 59;

"military leave without pay" - the status of any employee who is absent from duty because of service in the military or naval forces of the United States in time of war or national emergency under the authority of chapter 708, Acts of 1941;

"official leave" - the status of any employee who is absent from his/her regular place of duty and entitled to pay pursuant to an ordinance of the city Council or a directive of the city manager;

"pay" - compensation, based on a unit of an hour, a day, a week, a month, or a year, earned by an employee in the performance of service to the city. "Pay" does not include allowances for room, meals, or laundry, or any other allowance;

"sick leave" - the status of any employee who is absent from duty and entitled to sick leave pay in accordance with statutes, ordinances, collective bargaining agreements, or rules and regulations governing sick leave;

"unauthorized leave without pay" - the status of any employee whose absence from scheduled duty has not been authorized under the provisions of general or special law, or under the provisions of this or any other ordinance, collective bargaining agreement, rule or regulation;

"vacation leave" - the status of any employee who is absent from duty and entitled to vacation leave pay in accordance with the statutes, ordinances, collective bargaining agreement, or rules and regulations governing vacation leave;

"week" - a period of seven consecutive calendar days; and, when used to describe the term of any vacation leave, shall mean five days;

"work day" - a regular scheduled day of work, commencing at midnight and ending at midnight of the following day.

## **SICK LEAVE**

### **§ 2. Amount Allowed Annually - (Amended December 3, 2002 - 8296)**

Any salaried official or employee of the city, irrespective of status, with the exception of officials and other employees under the jurisdiction of the school committee, and those employees on the temporary employment account, shall be allowed, without loss of pay, earned sick leave as provided for in this chapter, aggregating to not more than fifteen full work days in any year plus the accumulations hereinafter provided, except employees on the EM Schedule, who may accumulate ten and one half days in any year, effective June 1, 2003.

### **§ 3. Rate of Accumulation; Maximum Allowed - (Amended December 3, 2002 - 8296)**

All persons entitled to sick leave by section two shall earn and accumulate earned sick leave credit at the rate of one and one-quarter days for each calendar month of service, except employees on the EM Schedule, who shall earn accumulate sick leave credit at the rate of 7 hours per calendar month. No person shall be allowed to accumulate unused sick leave to an amount in excess of one hundred and sixty-five days, except as authorized by their respective collective bargaining agreement or for employees on the EM Schedule, who may accumulate unused sick leave to an amount of two hundred days, effective June 1, 2003.

### **§ 4. Sick Leave Extension**

(a) Civilian employees, who have ten years of consecutive full-time service with the city and who have accumulated seventy days of earned sick leave at the date of first absence for illness or disability of a prolonged and uninterrupted nature, shall be compensated at half pay while absent from work for said sickness for the period of time commencing upon exhaustion of all accrued paid leaves, including sick leave. Said half pay under this ordinance shall terminate upon the first anniversary date of the absence. This subsection shall not apply to any employee in a collective bargaining unit unless specifically provided for in the bargaining agreement. Any sick leave extension for employees in bargaining units shall be governed by and limited to those benefits provided for in the respective bargaining agreements.

(b) Employees subject to this section shall accrue sick leave at the same rate as specified in section two.

(c) No sick leave credit may be used to compensate any absences under this chapter for the first six calendar months (or for the first thirty weeks if so provided for in a collective bargaining agreement) of employment with the city.

### **§ 5. Sick Leave for the City Manager**

Notwithstanding the provisions of section two hereof, the city manager shall be credited with of sick leave upon appointment and upon each anniversary date of appointment and to the extent provided in his or her contract of employment as the same is authorized under Article III of the Home Rule Charter. The limitation on maximum allowable accumulation of unused sick leave set forth in said section two shall not apply to the city manager, however; the accumulation of sick leave by the city manager shall not exceed 180 days of sick leave.

## **§ 6. Deductions**

(a) Any compensated sick leave actually taken by any person shall be deducted from his/her sick leave credit.

(b) Holidays and days not included in a normal work week shall not be deducted from sick leave credit. Not more than five days shall be deducted from the sick leave credit of any officer or member of the fire or police departments for absence from duty for any period of seven consecutive days because of disability.

## **§ 7. Part-Time Employees**

Any part-time employee or official of the city, irrespective of status with the exception of employees under the jurisdiction of the school committee and those on the temporary employment account, shall be entitled, without loss of pay, to earned sick leave credit, accrued sick leave, and accumulations in an amount determined on the basis of the proportion between his/her part-time service and full-time service.

## **§ 8. Transfer within City Service**

No transfer within the service of the city shall affect the amount of earned sick leave credit and accumulations which an employee or official has been entitled to under this chapter or the rules of the school committee.

## **§ 9. Termination of Employment**

Sick leave payments, earned sick leave credit, and accumulations to any employee or official shall automatically cease upon such employee's or official's death, resignation, retirement, or permanent separation from the service of the city and no monetary allowance or adjustment shall be made for said sick leave credit or accumulations.

## **§ 10. Absences Compensated under State law**

Persons entitled to sick leave under section two of this chapter shall not receive sick leave payments for any injury, accident or illness for which compensation is payable under the provisions of G.L. c. 152, except that such persons having accrued sick leave credit may be allowed upon request that amount of sick leave payment which, when added to the amount of compensation payable under G.L. c. 152, will result in the full payment of his/her salary or wages.

## **§ 11. Disability of Firefighters and Police Officers**

Officers and members of the fire and police department not entitled to compensation under the provisions of G.L. c. 152 shall continue to receive their regular compensation during the period of their absence from duty because of temporary incapacity resulting from injury or illness arising out of and in the course of the performance of their duty. No sick leave payment or reduction in sick leave credit shall be made for any period of time during which regular compensation is paid under this section. No payment shall be made under this section until approved by the head of the respective department and the city manager.

**§ 12. Administrative Leave for Officials and Employees to be Retired -  
(Amended December 3, 2002 - 8296)**

(a) Any official or employee, not subject to subsection (b) hereunder, who is eligible to retire under the provisions of chapter 32 of the General Laws and who has completed twenty years of service with the city for purposes of retirement, or who is over the minimum age to retire for superannuation under chapter 32 of the General Laws may during the last year of his/her service with the city request his/her department head to convert his/her earned sick leave credit in excess of one hundred days to administrative leave to a maximum of twenty days, or in the case of an employee on the EM Schedule, to a maximum of thirty-five days, effective June 1, 2003. The department head, upon request, shall convert such credit to administrative leave and shall grant such leave to the employee or official during his/her last year of service with the city in accordance with the needs of the city, as determined by the department head.

(b) For any employee, upon the retirement of such employee, the department head shall pay the employee as a cash bonus his converted sick leave over one hundred days, said cash bonus not to exceed an amount equal to a maximum of twenty sick leave days of the employee, unless otherwise provided for by the respective collective bargaining agreement or if the employee is on the EM Schedule, said cash bonus shall not exceed a maximum of thirty-five days, effective June 1, 2003.

**§ 13. Earning of Sick Leave While in Sick Leave Status**

Notwithstanding the provisions of any ordinance to the contrary, all persons entitled to sick leave under section two, shall earn sick leave credit notwithstanding being in the status of paid sick leave under this chapter.

**§ 13a. Sick Leave Incentive Program for Executive Management (EM) Employees -  
(Ordained December 3, 2002 - 8296)**

Employees on EM Schedule who use five or less sick leave days during the sick leave year, June 1 - May 31 for all EM employees, except those in public safety departments whose sick leave year shall be January 1 - December 31, shall have the option to convert up to seven unused sick days minus the number of sick days actually used during the sick leave year at the rate of 75% of their then current pay, effective July 1, 2004.

**VACATION LEAVE**

**§ 14. Excepted Classifications \***

All offices and positions in the government of the city shall be subject to this chapter, except the following:

- (a) Those filled by popular election;
- (b) Those under the jurisdiction of the school committee;
- (c) Those temporary, intermittent, and part-time positions not meeting the definitional requirements set forth in this chapter, for such positions;

(d)\* (Section (d) was ordained August 20, 1996 - 7035 and then repealed on December 3, 2002 - 8296)

## § 15. Eligibility

Vacation shall be granted to every employee who is entitled to such leave under this Article. The duration of such vacation leave shall be computed as follows:

(a) One Week Vacation: Every qualifying full-time, intermittent, or part-time employee on Pay Schedule 1, 3A, 4A, 5, 6, 9P, 9M, or EM who has actually worked at least one day during the twelve months preceding the first day of June in any year shall be entitled to one week of vacation leave for such vacation year, provided however, that said employee shall not be allowed to take said vacation during vacation year unless he has actually worked thirty weeks or (1200 regular hours in the aggregate) with the city; if said employee fails to work thirty weeks or 1200 hours prior to the end of the vacation year, he shall not be eligible for any vacation for that vacation year. \*

\*Amended December 3, 2002 - 8296

(b) Two Week Vacation: Every qualifying full-time, intermittent or part-time employee on pay schedules 1, 3A, 4A, 5, 6, 9P, 9M, or EM and subject to subsection (a)(1) who has actually worked at least fifty-two weeks during the twelve months preceding the first day of June shall be eligible for two weeks vacation. Every full-time, intermittent, or part-time employee on a Pay Schedule other than 1, 3A, 4A, 5, 6, 9P, 9M, or EM who has actually worked at least thirty weeks (1200 hours in the aggregate) in the service of the city during the twelve months preceding the first day of June in any year shall be entitled to two weeks vacation leave for such vacation year. \*

\*Amended December 3, 2002 - 8296

(c) Three Week Vacation: Every qualifying full-time, intermittent, or part-time employee who has actually completed at least five years but less than ten years of continuous service to the city during the twelve months preceding the first day of June in any year and who has actually worked thirty weeks (1200 regular hours) with the city during that same twelve month period shall be entitled to three weeks of vacation leave for such year.

(d) Four Week Vacation: Every qualifying full-time, intermittent, or part-time employee who has actually completed at least ten years of continuous service to the city during the twelve months preceding the first day of June in any year and who has actually worked thirty weeks (1200 regular hours) with the city during that same twelve month period shall be entitled to four weeks of vacation leave for such year.

(e) Four Week Vacation Leave For Public Health Personnel:

(i) Every full-time, intermittent, or part-time employee in any of the following classifications who actually worked at least thirty weeks (1200 regular hours) in the aggregate in the service of the city during the twelve months preceding the first day of July in any year shall be granted four weeks of vacation leave for such year:

Public Health Nurse

Supervising Public Health Nurse  
Assistant Public Health Nursing Director  
Public Health Nursing Director

- (ii) The vacation period for those employees in the classification of Public Health nurse shall be restricted to the months of July and August of such vacation year and shall be only as authorized by the department head, so that the department head shall not be handicapped thereby; provided, however, that the department head may, in his/her discretion, schedule the vacation period in whole or in part during the months other than July and August.
- (iii) Except in those instances where another provision of this chapter may be contrary to this vacation allowance, all sections of this chapter shall otherwise be applicable to these applications.
- (f) **Vacation Credit for Prior Experience.** Notwithstanding the foregoing or any other ordinance or practice to the contrary, the City Manager shall have the authority to credit employees in any position which is not governed by civil service and included in a collective bargaining group with all or part of the time that employee served in prior city employment, or in any other prior employment, when calculating the number of weeks of vacation leave granted by this ordinance. The authority granted by this section may be exercised annually or permanently and, in the case of employees under the jurisdiction of the City Council, by the City Council, and in no event shall result in any employee receiving vacation leave in excess of the maximum amount of vacation leave granted by these ordinances. \*

\*Ordained September 21, 2004 - 8565

#### § 16. Eligibility for Police Officers

Subject to the rules and regulations promulgated by the city manager, the chief of police shall grant vacation leave in accordance with the provisions of section five to police officers and officials as follows:

(a) Five Days of Vacation: Every qualifying police officer or police official with less than one year of service who has actually worked six months of full-time, continuous service preceding the first day of July in any year shall be entitled to five days of vacation leave for such year.

(b) Ten Days of Vacation: Every qualifying police officer or police official who has actually completed a minimum of one year but less than five years of full-time, completed a minimum of one year but less than five years of full-time, continuous service for the city during the twelve months preceding the first day of July in any year shall be entitled to ten days of vacation leave for such year.

(c) Twenty-One Days of Vacation: Every qualifying police officer or police official who has actually completed a minimum of five years but less than ten years of full-time, continuous service for the city during the twelve months preceding the first day of July in any year shall be entitled to twenty-one days of vacation leave for such year.

(d) Twenty-Eight Days of Vacation: Every qualifying police officer or police official who has actually completed a minimum of ten years of full-time

continuous service for the city during the twelve months preceding the first day of July in any year shall be entitled to twenty-eight days of vacation leave for such year.

(e) Exclusive Application: Notwithstanding any provision of this chapter, the amount of vacation leave for police officers shall be governed exclusively by this section.

#### **§ 17. Eligibility for Graduate Librarians**

(a) Effective January, 1977, Graduate Librarians, Grades 1-5, employed by the Worcester Public Library for at least fifty-two weeks during the twelve months preceding the first of June who have actually worked for the Library at least 30 weeks (1200 hours) shall receive four weeks vacation for the vacation year.

(b) Notwithstanding the provisions of § 19 below, the head librarian is authorized to grant vacation leave at such times and for such duration (but in no event to exceed 20 days) which, in his opinion, will least interfere with the needs of the Library.

#### **§ 18. Exceptions Authorized by the City Manager**

Notwithstanding the limitations imposed by section 15, 16, 17 or 19, the city manager may continue to grant in any department in any leave year such vacation as had been granted by custom, practice, or rule prior to the effective date of this chapter; provided, however, that any employee, appointed in any department after July 24, 1955 shall henceforth be granted only such vacation leave as is or may be authorized by section 15, 16 or 17 exclusive of this section.

#### **§ 19. Granting of Vacation Allowance**

(a) Subject to the rules and regulations promulgated by the city manager, the head of each department shall be authorized to grant and to assign vacation leave to any employee eligible therefor at such time during the current leave year as, in his/her opinion, will cause the least interference with the performance of the regular work of the city.

(b) Notwithstanding anything in subsection (a) above, in no instance shall vacation leave be granted by the department head in periods other than as follows:

- (i) If an employee is eligible for one week of vacation leave:
  - The vacation leave shall be granted in a period of not less than one full week;
- (ii) If an employee is eligible for two weeks of vacation leave:
  - Two full weeks of vacation leave may be granted at one time.
  - At least one full week shall be granted at one time. The remaining week may be granted in period of not less than one full day at a time.
- (iii) If an employee is eligible for three weeks vacation leave:

- Three full weeks of vacation leave may be granted at one time.
  - At least two full weeks shall be granted at one time. The remaining week may be granted in full separately or may be granted in periods of not less than one full day at a time.
- (iv) If an employee is eligible for four weeks of vacation leave:
- Not more than three full weeks of vacation leave may be granted at one time.
  - One or two weeks may be granted in full separately.
  - At least one week of these two weeks shall be granted in full. The remaining week may be granted in full separately or may be granted in periods of not less than one full day at a time.

**§ 20. Scheduling of Vacation Leave**

Notwithstanding the provisions of § 19, the department head, upon proper notice and request by the employee, may waive the restrictions of § 21 as to the number of days or weeks that may or may not be taken at one time and grant vacation leave at the department head's convenience; provided, however, a minimum of one full day must be taken at a time.

**§ 21. Additional Day of Vacation Leave**

If any of the holidays described in § 42 of this chapter falls within a full week of vacation leave taken by an employee, such employee shall be entitled to an extra day of vacation leave. Such extra day of vacation leave shall be taken by such employee forthwith and as part of his/her regular vacation leave. In no instance shall an employee be given an extra day of vacation leave, as herein provided, when the vacation leave of such employee is granted in periods of less than one full week.

**§ 22. Vacation Leave in Advance Prohibited**

No employee shall be granted vacation leave until he or she is eligible therefor under the provisions of this chapter. Vacation leave shall not be granted in anticipation of service.

**§ 23. Vacation Leave Carry-Over Prohibited**

(a) All vacation leave must be taken during the leave year in which the employee becomes eligible for vacation leave. Any vacation leave which is not taken then, in accordance with this chapter, shall be lost. Vacation leave may not, under any circumstances be accumulated or taken in a subsequent leave year.

(b) Notwithstanding the provisions of this section, the city manager may waive the prohibitions of § 8 for the personnel of the Assessing Department and the Data Processing Services Department for a period of not greater than one year if, in his opinion, it will be in the best interest of the city.

(c) Notwithstanding the provisions of this section, employees on the EM Schedule may buy back up to seven unused vacation leave days at the end of the

vacation leave year, at 75% of their then current rate of pay, effective July 1, 2004.\*

\*Ordained December 3, 2002 - 8296

#### **§ 24. Vacation Leave for City Manager**

The city manager shall be credited with vacation leave, exclusive of legal holidays, upon appointment and on each anniversary date of appointment, to the extent specified in his or her contract of employment as the same is authorized under Article III of the Home Rule Charter.

#### **§ 25. Vacation Pay Computation**

The rate of pay for any employee while in the status of vacation leave shall be the rate of pay for the primary classification of such employee. For those employees having a secondary classification, however, the rate of pay shall be based on the classification in which the employee actually worked, exclusive of overtime, for a minimum of twelve hundred hours in the aggregate during the twelve months preceding the first day of June in any leave year, provided, however, for the classification of motor equipment operator A, B, C, and D, the minimum hours shall be one thousand.

#### **§ 26. Duty Concurrent with Vacation Prohibited**

The head of a department shall not knowingly permit any employee to perform any service in his/her department for which such employee would be entitled to receive pay or other compensation while such employee is receiving pay or other compensation from any department for vacation leave or any other leave.

#### **§ 27. Credit for Service in the Worcester Public School System**

For purpose of eligibility for vacation leave, the term "in service of the city" shall be deemed to include credit for service in the Worcester Public School system.

#### **§ 28. Terminated Employees**

Employees whose service is terminated through resignation or dismissal for cause shall not be entitled to any earned but unused vacation nor to any compensation in lieu thereof.

### **OTHER LEAVES**

#### **§ 29. Delegates to Conventions**

A department head may, when requested by an employee in writing, grant a leave of absence without loss of pay or reduction of the vacation leave credit to any employee who furnishes an authenticated minute of his/her post indicating that he has been elected to a delegate to a state, regional, or national convention of any of the following organizations:

American Gold Star Mothers, Inc.  
American Legion  
American Portuguese War Veterans Association

American Veterans Committee, Inc.  
 American Veterans of World War II, AMVETS - Department of Massachusetts  
 Army and Navy Union of the United States of America  
 Daughters of Union Veterans of Civil War  
 Disabled American Veterans of the World War  
 Franco-American War Veterans, Inc.  
 Fleet Reserve Association, United States Navy  
 Grand Army of the Republic  
 Italian-American World War Veterans of the United States of America,  
 Inc.  
 Jewish War Veterans of the United States  
 Kearsarge Association of Naval Veterans, Inc.  
 Marine Corps League  
 Massachusetts Society of the Sons of the American Revolution  
 Massachusetts State Guard Veterans  
 Military Order of the Purple Heart  
 Military Order of the World Wars  
 Reserve Officers Association of the United States, Inc.  
 Seabee Veterans of America, Inc. - Department of Massachusetts  
 Society of the War of 1812 in the Commonwealth of Massachusetts (Inc.)  
 Sons of Union Veterans of the Civil War  
 United Spanish War Veterans  
 Veterans of Foreign Wars of the United States  
 Yankee Division of Veterans' Association

provided that not more than two employees in any one department may be absent concurrently under this section, and provided further that the absence of any employee under this section does not inconvenience or cause additional expense to the city. No employee shall be authorized to attend more than one such convention in any twelve month period commencing on the first day of January.

### **§ 30. Compassionate Leave**

(a) A department head shall, when so requested by an employee in writing, grant a leave of absence without loss of pay or reduction of vacation leave credit to said employee to enable him/her to properly attend the mourning and funeral of a person in accordance with and not to exceed the schedule enumerated below:

- (i) Spouse of employee - not to exceed five days;
- (ii) Father, mother, son, daughter, of employee or employee's spouse, brother, or sister of employee; stepfather, stepmother, stepson, stepdaughter of employee, provided such person resided in employee's immediate household at time of death; person placed by authority of law under the care of employee as guardian - not to exceed three days;
- (iii) Brother or sister of employee's spouse; grandmother, grandfather, grandson, granddaughter of employee or employee's spouse; stepson, stepdaughter of employee residing outside of employee's home at time of death; blood aunt or uncle of employee - not to exceed one day;
- (iv) No compassionate leave is granted for death of stepfather, stepmother, stepson, stepdaughter, blood aunt or blood uncle of the employee's spouse.

(b) This section shall not apply to employees who are covered by a collective bargaining agreement, for whom the terms of the respective agreement shall be controlling.

(c) A department head may, when so requested by an employee in writing, grant a leave of absence not to exceed one-half working day without loss of pay or reduction of the vacation leave credit to said employee to enable him/her to attend the funeral of another employee or retired employee, providing such absence does not inconvenience or add to the expenditures of the city.

#### **§ 31. Funerals of Veterans**

A department head may, when so requested by an employee in writing, grant a leave of absence without loss of pay or reduction in the vacation leave credit for a period not to exceed one-half day to said employee for the purpose of attending the funeral or memorial services of a veteran or of any person dying other than under dishonorable circumstances while serving in the armed forces of the United States in time of war or insurrection, provided that not more than one employee in any department may be absent concurrently under this section and provided further that the absence of any employee under this section does not inconvenience or cause additional expense to the city.

#### **§ 32. Military Training**

A department head shall grant to any employee, without loss of pay or reduction in his/her vacation leave credit, a leave of absence of up to seventeen days as authorized under G.L. c. 33. § 59; provided that said employee shall furnish to said department head an authenticated copy of the orders issued to him/her and shall furnish an authenticated certificate showing the date or dates on which such duty was performed.

#### **§ 33. Authorized Leave Without Pay**

A department head may grant a leave of absence without pay to any employee for any purpose not specifically set forth in this Article, provided that no employee shall be absent without pay for a period of time in excess of one week without receiving the approval of the city manager upon the recommendation of the department head and the director of the Office of Human Resources. Not more than thirty days in the aggregate shall be granted under this paragraph for absence without pay in any twelve month period commencing on the first day of January.

#### **§ 34. Overtime Compensatory Leave**

(a) The city manager may grant to officers of the city not in a bargaining unit, not eligible under any circumstances for paid overtime or compensatory time off, and with less than ten years of service with the city, a leave of absence without loss of pay or reduction of any vacation leave or personal leave credit, not to exceed five days per vacation year for such persons with five to ten years of service and not to exceed ten days per vacation year for such persons with less than five years of service.

(b) Said leave shall be granted by the city manager only to such officers who actually perform overtime work for the city without pay in excess of one-hundred-twenty hours per vacation year.

(c) No eligible officer shall be granted overtime leave unless he/she has actually completed one year of full-time continuous service with the city.

(d) Overtime leave shall be administered in accordance with the provisions of vacation leave and may not be accumulated or carried over to another vacation year.

**§ 35. Unauthorized Leave Without Pay**

Any absence from regular duty which has not been authorized by general or special law, by this or any other ordinance, or by administrative rules and regulations promulgated by the city manager shall be unauthorized leave without pay.

Any non-civil service employee who is absent from his/her regular duty for a period of one week (seven consecutive calendar days) in the aggregate without specific authorization for such absence and any civil service employee who is absent from his/her regular duty for a period of two weeks (fourteen consecutive calendar days) in the aggregate without specific authorization shall be deemed to have resigned from the service of the city and to have vacated permanently his/her position unless authorization is subsequently granted by the city manager.

**§ 36. Maternity Leave**

Maternity leave shall be granted in accordance with G.L. c. 149, § 105D, and G.L. c. 151B, § 4.

**§ 37. Civil Service, Nursing Registration**

A department head may, when so requested by an employee in writing, grant a leave of absence without loss or pay or reduction of the vacation leave credit to said employee for the purpose of taking a nurse registration examination, a licensed practical nurse examination or bar examination, or for the purpose of appearing before an examiner of the Division of Civil Service to take an oral, written, or practical examination or a physical examination for a position in the employment of the city. Such leave of absence shall not exceed one-half day if the examination is conducted within city limits or one day of the examination is conducted outside the city.

**§ 38. Personal Leave**

(a) The city manager may, whenever he or she deems that it will serve the best interests of the city, grant, under such conditions as he or she may specify, a leave of absence, without loss of pay or reduction of the vacation leave credit to any or all employees for the proper observance of religious holiday, for special events, occasions or celebrations, for actual or impending inclement weather, or for any other situation, provided, however, that such leave shall not cause additional expense or inconvenience to the city.

(b) This section shall not apply to any employee in a collective bargaining unit unless so provided for and under the conditions established, by the terms of the respective bargaining agreement.

**§ 39. Administrative Leave for Police Officers**

(a) Subject to the provisions of § 11 of Appendix A of these Revised Ordinances, the chief of police shall grant employees with rank of police officer seventeen administrative leave days during the calendar year. The chief may schedule police officers on a work week of four working days and two

days off and if necessary, one administrative leave day. The chief shall institute such a schedule for police officers of the police department no later than April 1, 1974, provided however, for such police officers, who in his/her judgment should not be on such a schedule, he may place them on such other schedule as he deems advisable and shall grant them their administrative leave days at an appropriate time as deemed by him/her.

(b) Upon the implementation of this chapter, no police officer shall receive personal leave from the city.

#### **§ 40. Adjustment Leave for Police Officials**

(a) Subject to the provisions of these Revised Ordinances, the chief of police shall grant employees with the rank of sergeant, lieutenant, captain, and deputy, adjustment leave as follows:

Employees who have completed one year of continuous service as of June 30, shall be granted fourteen adjustment leave days in the following fiscal year of the city.

(b) Adjustment leave days will be scheduled by the chief in advance of the fiscal year of entitlement. The chief shall retain the right to schedule such days in accordance with the needs of the department. Adjustment leave days not used in the fiscal year for which they are accrued may not be carried forward into any future fiscal year.

(c) Those employees assigned to a four & two schedule will not be granted adjustment leave days or personal days. Those employees assigned to a five & two schedule with adjustment leave days shall be granted three personal days.

#### **§ 41. Administrative Leave for Civilian Employees**

(a) Those employees who have actually completed ten years of full time, continuous service to the city shall be entitled to two administrative leave days annually.

(b) The granting and administering of administrative leave to employees who are entitled to receive it shall be in accordance with the provisions of this chapter relative to vacation leave.

(c) This section shall not apply to any employee in a collective bargaining unit unless so provided for, and under the conditions established, by the terms of the respective bargaining agreement.

#### **§ 42. Holiday Leave**

(a) Subject to the rules and regulations promulgated by the city manager, full-time civilian employees of the city shall be entitled to eleven paid holidays enumerated below in addition to any regular days off to which they may be entitled:

(i) First day of January or the day preceding when said day occurs on a Saturday, or the day following when said day occurs on a Sunday;

(ii) Third Monday in January;

- (iii) Third Monday in February;
- (iv) Third Monday in April;
- (v) Last Monday in May;
- (vi) Fourth day of July or the day preceding when said day occurs on a Saturday, or the day following when said day occurs on a Sunday;
- (vii) First Monday in September;
- (viii) Second Monday in October;
- (ix) Eleventh day of November or the day proceeding when said day occurs on a Saturday, or the day following when said day occurs on a Sunday;
- (xi) A day in November proclaimed as Thanksgiving Day;
- (xii) Christmas Day or the day preceding when said day occurs on a Saturday, or the day following when said day occurs on a Sunday.

(b) This section shall not apply to the following classifications in the Vocational School Department:

Department Head  
Instructor

#### **§ 43. Time and One-Half for Holiday Work**

Employees who actually work on the three days enumerated below shall be entitled to time and one-half pay for any hours worked on said holidays, in addition to their regular holiday pay for said holidays:

- (a) The first day of January or the day preceding when said day occurs on a Saturday, or the day following when said day occurs on a Sunday;
- (b) A day in November proclaimed Thanksgiving Day;
- (c) Christmas Day or the day preceding when said day occurs on a Saturday, or the day following when said day occurs on a Sunday.

#### **§ 44. Eligibility for Holiday Leave**

Upon completion of one year of service and subject to the rules and regulations promulgated by the city manager, part-time civilian employees of the city working regularly twenty or more hours per week shall be entitled to the eleven holidays enumerated in § 10 above in addition to any regular days off to which they may be entitled.

#### **§ 45. Holiday Leave for the Police and Fire Departments**

(a) All uniformed members of the fire department shall receive holiday leave in accordance with G.L. c. 48, § 57D, except that any uniformed member of the department whose tour either commences or ends on New Year's Day, Thanksgiving Day, or Christmas Day shall be compensated for all hours of such tour at the rate of time-and-one-half such employee's straight-time hourly rate of pay; provided, however, that such employee shall be entitled to such time-

and-one-half pay only if such employee shall not have called in sick for a scheduled tour on the calendar day before or after such holiday. Any member who works two tours, both of which fall within one of the holidays listed above, shall be entitled to receive time-and-one-half holiday pay for only one tour.

(b) All uniformed members of the police department shall receive holiday leave in accordance with G.L. c. 147, § 17A, except that any uniformed member of the department who actually works on New Year's Day, Thanksgiving Day or Christmas Day shall be compensated therefor at the rate of time-and-one-half such employee's straight time hourly rate of pay for all hours worked on said holidays; provided, however, that such employee shall be entitled to time-and-one-half pay only if such employee shall not have called in sick on either the calendar day before or the calendar day after said holiday.

#### **MISCELLANEOUS**

##### **§ 46. Conflict with Collective Bargaining Agreements**

If a collective bargaining agreement reached by the city and a recognized or certified union or association contains a conflict between matters which are within the scope of negotiations under § 6 of chapter 150E of the General Laws and any provision of this chapter, the terms of the collective bargaining agreement shall prevail.

##### **§ 47. Rules and Regulations**

The city manager is empowered to promulgate any rule and regulation not consistent with this chapter which he/she may deem necessary for the effectuation of this chapter.

##### **§ 48. Interpretation**

This chapter shall be construed as a grant of authority and not as a limitation thereof.

## CHAPTER FOUR

### RECYCLING & SOLID WASTE COLLECTION

- § 1. Supervision
- § 2. Definitions
- § 3. Solid Waste Collection
- § 4. Recyclable Collection
- § 5. Placement of Items for Collection
- § 6. Prohibited Actions
- § 7. Rules and Regulations
- § 8. Enforcement

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#### § 1. Supervision

The commissioner of public works shall have the supervision, direction, and control of the collection and recycling of solid waste.

#### § 2. Definitions

Unless otherwise required by the context, the following words shall be afforded the following definitions:

"bulk item" - any item which weighs more than thirty pounds or measures more than thirty-six inches in any one direction, and shall include, by example, the following items: Mattresses, furniture, lumber, trees, tree limbs, stoves, refrigerators, and tires.

"commissioner" - the commissioner of public works of the city.

"department" - the department of public works of the city.

"recyclable" - any item contained on a list of recyclable items issued and amended from time to time by the commissioner, and shall include, by example, the following items: newspapers, magazines, chip board, junk mail, glass bottles and jars, metal food and beverage cans, can lids, aluminum foil and trays, juice and milk cartons, drink boxes and plastic bottles classified as #1, #2 and #3 and whose bases are larger than their necks or mouths.

"solid waste" - any waste which is not designated by the commissioner as a "recyclable" item or as a "bulk" item and shall include, by example, the following items: plastics other than those classified as #1, #2 or #3, food waste, used or soiled paper products (paper towels, cardboard, napkins, etc.).

### **§ 3. Solid Waste Collection**

(a) The department shall collect solid waste from single family dwellings and multiple family residential buildings containing up to six dwelling units.

Solid waste shall be made on a weekly basis in areas designated by day, unless such collection is waived by the commissioner.

(b) Solid waste shall be collected only if placed in plastic bags approved by the commissioner. No bag shall be collected if its weight exceeds the weight limit for that bag. No solid waste shall be collected by the department from inside dwelling units or garages or any place other than the curbside area specified in this chapter.

(c) The department shall not collect bulk items placed on the curb for collection with the solid waste pick-up. Bulk items shall be the responsibility of the owner to dispose of and shall not be included within the regular collection.

(d) The department shall not collect residential solid waste collection bags or recycling bins if any of the following conditions exist:

- (1) solid waste not contained in an approved collection bag;
- (2) dangerous dog, or other animal, on premises;
- (3) improper location of collection bag or recycling bin;
- (4) collection bag exceeds weight limit;
- (5) sharp object not properly wrapped, packaged or labeled;
- (6) unsanitary conditions at the collection point resulting from ripped or torn collection bags or an improper recycling bin.

### **§ 4. Recyclable Collection**

The commissioner shall collect, or cause to be collected, at least once every two weeks, recyclable items placed in recycling bins in accordance with any regulations governing such collections as he or she may from time to time issue.

### **§ 5. Placement of Items for Collection**

(a) Any person desiring collection of solid waste or recycling items shall place approved solid waste bags or recycling bins at the curbside, or as near as possible, without interfering with pedestrian traffic. No person shall place solid waste bags or recycling bins on the roadway for collection.

(b) No solid waste bag or recycling bin shall be placed at curbside earlier than 6:00 a.m. or later than 7:30 a.m. of the day of collection. Solid waste bags and recycling bins must be in place prior to arrival of the collection trucks.

(c) Nothing of value shall be placed at or near the collection point for solid waste or recycling items.

(d) Owners, including tenants or designated agents, shall maintain safe and sanitary conditions at the collection point.

#### **§ 6. Prohibited Actions**

(a) No person shall place any building debris, explosives or hazardous materials in any solid waste collection bag for collection by the city.

(b) No person shall dispose of dead animals, other than those slaughtered for human consumption, in a solid waste collection bag for collection by the city.

(c) No person shall dispose of leaves or yard waste with the solid waste collection or in any collection bag placed for collection by the city.

(d) No person shall place any sharp objects such as broken glass, syringes or needles in any collection bag such that they will puncture the collection bag or otherwise endanger the person collecting the bag.

(e) No person shall place recyclable items in any solid waste bag placed out for collection.

(f) No person shall place solid waste in any recycling bin placed out for collection.

(g) No person shall violate any of the provisions of this ordinance, or the rules or regulations of the commissioner, concerning the disposal and collection of solid waste and recyclable items.

(h) No person, unless authorized by the commissioner shall sort, open, remove items from, place items in, or in anyway disturb the solid waste bag or recycling bin placed at curbside by another. \*

\*Ordained December 2, 1997 - 7349

#### **§ 7. Rules and Regulations**

The commissioner may promulgate rules and enforcement and regulations relative to the administration, operation of solid waste collection and recycling activities of the department.

#### **§ 8. Enforcement**

Any person violating any provision of this chapter or any rule or regulation of the commissioner concerning the disposal and collection of solid waste and recyclable items shall be subject to a penalty of twenty-five (\$25.00) dollars. A violation of this section may be penalized by civil process, criminal process or by noncriminal disposition as provided in General Laws, chapter 40, S21D. \*

\*Amended September 30, 2003 - 8389

CHAPTER FIVE

SEWERS AND STORM WATER MANAGEMENT (Amended November 29, 2005 - 8721)\*

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#### GREASE MANAGEMENT PROGRAM

§ 35. Fat, Oil, and Grease Control

\* Note: Chapter 5 amended and replaced in it's entirety on November 29, 2005 - 8721. The Original Chapter 5 was amended by the following before it was replaced: 7037 - July 23, 1996, 7345 - November 10, 1997, 7412 - March 3, 1998, 7807 - March 21, 2000, 7915 - June 21, 2000, 8084 - June 19, 2001, 8231 - July 16, 2002, 8259 - October 8, 2002, 8265 - November 12, 2002, 8294 - November 26, 2002, 8497 - June 29, 2004, 8650 - June 21, 2005, and 8651 - June 21, 2005

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#### § 1. Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

"biochemical oxygen demand (BOD)" - the quantity of oxygen used in the biochemical oxidation of organic matter in a specific time, at a specified temperature, and under specified conditions.

"building drain" - shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning ten (10) feet outside the inner face of the building wall.

"building sewer" - the extension from the building drain to the public sewer or other place of disposal; also called "house connection", "building service", and/or "service connection".

"chemical oxygen demand (COD)" - a measure of the oxygen consuming capacity of inorganic and organic matter present in water or wastewater expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand.

"city official" - means the commissioner or the individual(s) duly appointed by him or her for the performance of any of his or her functions or responsibilities under this ordinance.

"combined sewer" - a sewer intended to receive both sewage and storm (or surface) water.

"commercial sewage waste" - non-toxic, non-hazardous facilities, including but not limited to institutional self-service laundries, and animal holding facilities.

"commissioner" - the commissioner of public works of the city.

"composite sample" - a combination of individual samples of water or wastewater taken at selected intervals, generally hourly, for a specified time period, to minimize the effect of variability of the individual sample. Individual samples may have equal volume or may be roughly proportioned to the flow at time of sampling.

"ccf" - cost per hundred cubic feet.

"department" - the department of public works and parks established by Article 3 of Appendix A of these Revised Ordinances.

"district" - Upper Blackstone Water Pollution Abatement District (UBWPAD).

"drain" - (1) a conduit or channel constructed to carry off, by gravity, liquids other than wastewater, including surplus underground, storm or surface water. It may be an open ditch, lined or unlined, or a buried pipe. (2) in plumbing, any pipe which carries water or wastewater in a building drainage system.

"drainage" - (1) water which has been collected by a drain system and discharged into a natural watercourse. (2) water flowing in a drain, derived from ground, surface, or storm water.

"drainlayer" - a general term applied to one in the business of laying drains and/or sewers from existing public sewers to the building drain of homes, commercial buildings, industrial buildings, and similar structures and properties.

"effluent" - wastewater or other liquid flowing out of a basin, treatment plant, or industrial treatment plant, or part thereof.

"entrails" - the internal parts of animals such as the bowels, guts, and viscera.

"equalization of waste flows" - an averaging of variations in flow and composition of wastewaters from particular sources by an equalizing basin or other means, to provide a flow of reasonably uniform volume and composition prior to the discharge into a public sewer.

"food service facility or facility" - any food service facility that prepares and/or packages food or beverages for sale or consumption, on or off site, with the exception of private residences. Food service facilities shall include, but are not limited to: food courts, food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools and all other food service facilities not listed above.

"garbage" - solid wastes from the domestic and commercial preparation, cooking, and dispensing of food.

"garbage disposal" - a device that shreds or grinds up food waste materials into smaller portions for discharge into the City's wastewater collection system.

"grab sample" - a single sample of sewage (wastewater).

"gray water" - (1) all of the liquid contained in a grease interceptor that lies below the floating grease layer and above the food solids layer. (2) Any water that has been used in the home, which includes dish, shower, sink, and laundry water, etc. and excludes water from toilets or urinals.

"grease" - means a material either liquid or solid, composed primarily of fat, oil, and grease from animal or vegetable sources. The terms "fats, oils, and grease (FOG)", "oil and grease", or "oil and grease substances" shall all be included within this definition.

"grease hauler" - a licensed septage hauler who collects the contents of a grease interceptor or trap and transports it to an approved recycling or disposal facility. A grease hauler may also provide other services to a food service facility related to grease interceptor maintenance.

"grease interceptor" - a device located underground and outside of a food service facility designed to collect, contain, or remove food wastes and grease from the wastestream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity. Grease Interceptors shall have a minimum of two (2) inspection hatches on the top surface to facilitate inspection, cleaning and maintenance by a grease hauler.

"grease trap" - a device located in a food service facility or under a sink designed to collect, contain, or remove food wastes and grease from the wastestream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity. Traps shall have a removable lid on the top surface to facilitate inspection, cleaning, and maintenance.

"groundwater" - subsurface water occupying the saturation zone, from which wells and springs are fed.

"industrial wastes" - the liquid wastes from industrial manufacturing processes, trade or business, or activity listed in 310 CMR 15.004.

"infiltration" - groundwater that enters the sanitary sewer through defects.

"inflow" - rainwater that enters the sanitary sewer.

"infiltration & inflow (I&I)" - a combination of infiltration and inflow.

"manhole" - an opening in a sewer providing access to the sewer.

"milligrams per liter (mg/L)" - a unit of the concentration of water or sewage (wastewater) constituent. It is 0.001 gram of a constituent in 1,000 milliliters of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analyses.

"natural outlet" - any watercourse, pond, ditch, lake, or other body of surface or groundwater.

"neutralized" - the condition of a solution existing after the reactions of acid or alkali with the opposite reagent until the concentrations of hydrogen and hydroxyl ions in the solution are approximately equal.

"outfall" - the conduit leading to the ultimate disposal area.

"owner, homeowner, or property owner" - shall include any agent of an owner.

"paunch manure" - the waste products of animals still found in the stomach or intestine upon slaughtering.

"PDI" - Plumbing and Drainage Institute.

"person" - any individual, firm, company, corporation, association, society, or group, including; any municipality, public authority or other public instrumentality.

"pH" - the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven (7) and a hydrogen ion concentration of  $1.0 \times 10^{-7}$  moles per liter of solution.

"pickling waste" - the wastewater from cleaning of iron, usually containing high amounts of iron and chloride ions in hydrochloric acid.

"plating solution" - a solution of the salts of metals used in metal plating and electroplating, usually an acid or a cyanide base.

"pretreatment" - any treatment of sewage (wastewater) to make it suitable for discharge to a public sewer.

"private sewer" - any sewer not owned and maintained by the city.

"properly shredded garbage" - the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

"public nuisance" - a wrongful act which destroys or deteriorates the property, real or personal, of an indefinite number of persons, or interferes with their lawful use or enjoyment thereof.

"public sewer" - a sewer which is owned and maintained by the city.

"sanitary sewer" - a sewer that carries liquid and water-carried wastes from residence, commercial buildings, industrial plants, and institutions, together with minor quantities of groundwater, storm water, and surface water that are not admitted intentionally.

"sewage" - wastewater from homes, public buildings, commercial or industrial establishments, or any combination thereof, including surface or groundwater that may be present therein.

"sewage treatment plant" - shall mean any arrangement of devices and structures used for treating sewage.

"sewage works" - all-inclusive term for sewage (wastewater) collection, pumping, treatment, and disposal facilities.

"sewer" - a pipe or conduit that carries wastewater or drainage water.

"sewer district" - any community and/or sewer district that is a member of the Upper Blackstone Water Pollution Abatement District.

"sewerage system" - a system of piping, with appurtenances, for collecting and conveying sewage (wastewater) from source to discharge.

"slug" - any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flow during normal operation.

"storm drain" - (sometimes termed "storm sewer") shall mean a sewer which carries storm, surface waters, and/or drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

"suspended solids" - (1) solids that either float on the surface of, or are in suspension in water, wastewater, or other liquids, and which are largely removable by laboratory filtering. (2) the quantity of material removed from wastewater in a laboratory test, as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as the portion of total solids retained by a filter.

"trunk" - refers to a sewer that receives many tributary branches and serves a large service area.

"unpolluted waters" - waters that require no treatment to meet the standards of water quality for discharge into natural outlets.

"wastewater" - the spent water of a community. A combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and/or storm water that may be present.

"watercourse" - a channel in which a flow of water occurs, either continuously or intermittently.

## **PERMIT & APPLICATION REQUIREMENTS**

### **§ 2. Permits Required**

- (a) No unauthorized person shall uncover, make any connections with or any opening into, use, repair, alter, or disturb any public sewer or appurtenance thereof, or any building sewer or other private sewer that connects to a public sewer without a sewer connection permit issued by the commissioner.
- (b) No person shall make any new discharge, or increase the volume or change in the character of any previously permitted discharge, into the public sewers without a discharge permit issued by the commissioner.
- (c) No person shall make a temporary discharge of treated, contaminated groundwater or surface water into the public sewer without a temporary discharge permit issued by the Commissioner.

### **§ 3. Application Requirements**

- (a) Application for permits to construct and/or connect a building sewer or other private sewer to the public sewers of the city shall be made by the owner in writing to the department at least forty-five (45) days prior to the new, increased, or changed discharge and shall be accompanied by the fee established by the commissioner pursuant to chapter two, § 24, hereof. Copies of all applications for permits shall be forwarded to the district. There shall be two classes of this type of permit: (1) for residential and commercial service, and (2) for service to establishments producing industrial wastes. In either case, the owner shall make application on such form as may be furnished by the commissioner. The owner shall supplement the application with any plans, specifications or other information considered pertinent in the judgment of the commissioner.
- (b) Notwithstanding any provision to the contrary, the city shall be exempt from payment of any fee imposed under this chapter of the Revised Ordinances.

### **§ 4. Display and Duration**

- (a) No person shall commence or continue any work involving the laying or repairing of any building or private sewer for which a permit is required by this chapter unless the requisite permit is at the site of the work in the hands of the drainlayer authorized by the owner to perform the work.
- (b) Any permit involving the laying or repairing of any building or private sewer shall be valid for sixty (60) calendar days from the issuance of the permit. If the work to be performed under the permit is not then completed, no further work may be performed without a new permit issued by the commissioner in the same manner as the original permit.

## **§ 5. Record of Permits**

The Commissioner shall keep a complete record, in books made for that purpose, of permits granted, giving the name of the street, the number of the estate if any, the name of the owner, the size, kind, and location of building sewers and other private sewers connected to the public sewers, the name of the drainlayer making the connection, and such other facts in connection therewith as may be important as matters of record.

### **FEE SCHEDULE**

## **§ 6. Capacity Fee**

- (a) The city council does hereby make the following findings of fact: That, the capacity of the public sewers of the city is inadequate due to the extensive infiltration and inflow invasions of storm waters, groundwaters and drainwaters; that, said lack of capacity results in the discharge of pollutants into the waters of the city and the commonwealth and creates a danger to public health and public nuisance; that, further connections to the public sewer would exacerbate the danger to the public health; that, a total moratorium on sewer connections would not serve the public interest or the citizens of the city, particularly with respect to the shortage of housing accommodations, and; that, those proposing to introduce additional wastewater to the public sewer must bear a portion of the expense of reducing infiltration and/or inflow.
- (b) The commissioner shall grant permits to applicants to connect their private sewers to the public sewers in accordance with this chapter and any other applicable provision of law; provided, however, that the commissioner shall deny all applications for sewer connection permits unless:
  - (i) The director of public health certifies in writing to the commissioner that the proposed connection is necessary to eliminate or alleviate an existing or imminent public health nuisance caused by the failure of one or more septic systems and the applicant complies with (b)(ii) below; or
  - (ii) The applicant pays, in addition to the sewer connection permit fee established by the commissioner pursuant to Chapter two, § 24, hereof, a capacity fee based on the number of gallons per day proposed to be introduced by the new connection. The amount of gallons per day to be introduced by the new connection shall be calculated in accordance with the sewage flow estimates contained in subsection (e) herein, or as determined by the commissioner. The capacity fee shall be adjusted each year, on or about July 1, based on the determined City of Worcester Transportation and Treatment (T&T) cost for the previous year
- (c) Notwithstanding the above, the commissioner may refuse to grant any permit for any amount of additional wastewater whenever he or she determines that inadequacies in the design or capacity of the sewer

system exist; or that the additional wastewater flow proposed to be introduced into the public sewer by the applicant exceeds the capacity of the public sewer, sewer works, sewage treatment process or equipment, or would otherwise have an adverse effect on the sewer system or the public health. IN support of its request for a permit, the applicant may be required to hire a professional engineer (P.E.) to evaluate impacts on the sanitary sewer and sewer works.

- (d) The fees collected pursuant to this section shall be deposited into a separate account and, after recommendations by the city manager and appropriation by the city council, be expended by the commissioner to pay for the removal of infiltration and inflow, including eliminating illegal connections and improvements to pumping stations.
- (e) For purposes of determining the additional flow to be introduced by any new connection, sewage flow shall be based on the State Environmental Code, Title 5 (310 CMR 15.203).
- (d) (f) For purposes of this section a "bedroom" means any portion of a dwelling, which is so designed as to furnish the minimum isolation necessary for use as a sleeping area. Such area shall not include kitchen, bathroom, dining area, halls, or unfinished cellar; but may include bedroom, den, study, sewing room, or sleeping loft.

#### **§ 7. Costs of Connection**

- (a) Except as set forth in the following subsections (b), (c), (e) and (f), all costs and expense incident to the construction and connection of the building sewer or other private sewer shall be borne by the owner. The owner shall otherwise indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation and connection of the building sewer or other private sewer.
- (b) For any connection, installation, alteration, repair or other disturbance of a building sewer or other private sewer connecting into a public sewer, which has been performed under a valid sewer connection permit and was inspected and approved by the city, including, where applicable, a water dye test, the homeowner shall not be personally liable for the cost to rectify any illicit connection between the sanitary and storm drain systems. In no event, however, shall the licensed drainlayer who performed such work be relieved of responsibility, but shall rectify the illicit connection, at its expense, upon order of the commissioner. If the licensed drainlayer shall fail or refuse to rectify the illicit connection, the city shall cause the work to be performed, and the cost thereof shall be assessed against the licensed drainlayer.
- (c) Where an illicit connection between the sanitary and storm drain systems is the result of work performed by a licensed plumber under a validly issued plumbing permit, the homeowner shall not be personally liable for the cost to rectify such illicit connection. In that event, the commissioner shall notify the director of public health, who shall order the licensed plumber to rectify the illicit connection at the licensed plumber's expense. If the licensed plumber shall fail or refuse to rectify the illicit connection, the city shall cause the work to be performed, and the cost thereof shall be assessed against the licensed plumber.

- (d) The provisions of paragraphs (b) and (c) shall apply to all permitted work occurring after March 1, 2000.
- (e) The commissioner is authorized to establish a program to provide limited refunds, not exceeding fifty percent (50%), of the costs incurred by building owners who paid to rectify an illicit connection that was installed prior to March 1, 2000. Any such program established hereunder shall conform to the following minimum requirements, and such other requirements as the commissioner deems advisable and not inconsistent herewith.
- (i) Refunds shall be available only to a current property owner who paid for the prior repair work; and
  - (ii) Applicants for refunds must provide proof of payment to a Worcester licensed drainlayer, or a licensed plumber, as the case may be. Furthermore, the owner must provide copies of its documentation from the Commissioner or the Commissioner of public health and code enforcement ordering the owner to eradicate the illicit connection.
  - (iii) The original installation must have been done pursuant to a validly issued sewer connection permit.
- (f) The Commissioner is authorized to establish a program to provide limited refunds, not to exceed fifty percent (50%), of the costs incurred by building owners to rectify any illicit connection made prior to March 1, 2000, which has not been corrected as of March 21, 2000. The licensed drainlayer or licensed plumber, as the case may be, who performed the work shall rectify the illicit connection, at its expense, upon order of the commissioner or the director of public health, as appropriate. If the licensed drainlayer or licensed plumber shall fail or refuse to rectify the illicit connection, the property owner shall cause the work to be performed. Provided the original installation was done pursuant to a validly issued sewer connection permit, the owner may seek partial reimbursement under the program, if any, established pursuant to this subsection.

## **CONNECTIONS & DISCHARGES**

### **§ 8. Separate Sewers**

A separate and independent building sewer shall be provided for every building; except that where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. A manhole shall be constructed at the junction of the front building sewer and the rear building sewer.

### **§ 9. Re-Use of Existing Sewers**

Old building sewers and other private sewers may be used in connection with new buildings or in connection with new public sewer construction, in whole or in part, only when they are found, on examination and test acceptable to the

commissioner of public works to meet all requirements of this chapter. Connection to same shall be upstream of any septic tank or cesspool.

#### **§ 10. Construction Methods and Materials**

The size, slope, depth, alignment, materials of construction of a building sewer, or other private sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing codes, and other applicable provisions of this chapter, the city and the commissioner.

#### **§ 11. Building Sewer Elevation**

The building sewer, whenever possible, shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain may be lifted by an approved means and discharged to the building sewer.

#### **§ 12. Roof, Surface, and Groundwater Source Connections**

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement sump pumps, or other sources or surface runoff or groundwater to a building sewer directly or indirectly which in turn is connected directly or indirectly to a public sanitary sewer. The foregoing types of connections shall not be made, directly or indirectly, to the combined sewer, unless approved by the commissioner.

#### **§ 13. Connection of Building Sewer to Public Sewer**

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes, and other applicable provisions of this chapter. All such connections shall be made gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the commissioner. The owner shall be responsible for cleaning, repairing, and if applicable, television inspection of the entire length of the building sewer, including any portion lying in the street.

#### **§ 14. Notification for Inspection**

The applicant or his authorized agent for the permit for a building sewer or other private sewer shall give timely notice to the commissioner when said sewer is ready for inspection and connection to the public sewer. Television inspection of the completed building sewer may also be required. The connection and television inspection shall be made under the supervision of the commissioner or his or her duly authorized representative.

#### **§ 15. Sewer Excavations**

All excavations for a building sewer or other private sewer construction shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the responsible official in charge of such property.

#### **§ 16. Drainlayer Requirements**

- (a) No person shall lay any building sewer or other private sewer or make any connection into any public sewer unless such person is duly licensed by the commissioner to lay said sewer. Such person so licensed shall post a form of surety acceptable to the commissioner, in a sum of not less than five thousand dollars (\$5,000), for the faithful performance of such work as he may execute, and to make good any defects in material or workmanship which may appear in any sewer on account of work done by said drainlayer, and to remunerate the city and any person connected to such work for loss or damage occurring in consequence of any act done under any permit granted said drainlayer.
- (b) No drainlayer duly licensed to construct building sewers and other private sewers and to make connections with public sewers shall allow his name to be used by any other person, either for the purpose of obtaining permits or doing any work under his license.
- (c) Any drainlayer violating any of the provisions of this chapter shall, in addition to the general penalty provided for the violation of the provisions of this chapter, forfeit his or her license.

#### **USE OF PUBLIC SEWERS, PRIVATE SEWERS, AND DRAINS**

##### **§ 17. Certain Discharges Prohibited**

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any public sanitary sewer of the city or to any public sanitary sewer of any member of the district, directly or indirectly. The foregoing types of connections shall not be made, directly or indirectly, to the combined sewer, unless approved by the commissioner.

##### **§ 18. Permissible Discharges**

Storm water and all other unpolluted drainage shall be discharged to such drains as are specifically designated as storm drains, combined sewers and drains (with approval) or to a natural outlet approved by the commissioner. Industrial cooling water or unpolluted process waters may be discharged, on approval of the commissioner, to a storm drain, combined sewer and drains or a natural outlet.

##### **§ 19. Temporary Discharge Permits**

- (a) No person shall make any temporary connection or otherwise discharge treated, contaminated groundwater or surface water to the public sewer whether through an existing or new connection without first obtaining the permission of the commissioner. In granting such permission the Commissioner shall have authority to set flow requirements, impose restrictions, and/or deny a proposed discharge in order to protect either receiving water bodies or facilities from possible degradation or impairment.
- (b) The owner or his authorized agent shall make application on a form furnished by the commissioner. The permit application shall be

supplemented by any plans, specifications, or other information considered pertinent in the judgment of the commissioner.

- (c) In addition to any permit and inspection fees established by the Commissioner pursuant to §24 of chapter two of these Revised Ordinances, a sewer use charge shall be levied against the owner or his authorized agent for the temporary discharge of treated, contaminated groundwater or surface water to the public sewer system through either an existing or new connection. The charge shall be based on the metered amount of discharge to the sewerage system, and shall be equivalent to the current effective sewer use charge.
- (d) The owner or his authorized agent shall meter the flow of the discharge on a continuous basis. Said metering devices shall be read monthly by the department. The owner or his authorized agent shall be billed on a semi-annual basis, or more frequently if approved by the commissioner, for all recorded discharges to the sewerage system.
- (e) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the commissioner, upon request, shall have the authority to reduce the assessment of the sewer use fee pursuant to § 26 of this chapter in order to provide additional incentives for the cleanup and redevelopment of contaminated sites, and to assist in the management of groundwater cleanup operations of such sites. Such reductions in the sewer use charges shall be administered in accordance with the following:
  - (i) For an initial period not to exceed three (3) years from the date of issuance of the applicable temporary discharge permit, the sewer use fee for a qualifying groundwater treatment system shall be fifty percent (50%) of the fee otherwise established under § 26.
    - a. Upon demonstrated need, the permittee may receive up to two, one (1) year extensions of reduced fee payments.
  - (ii) The fees established under subparagraph (i) above, shall be determined for a maximum of three (3) one-year periods, maximum discharge rate anticipated for the system during the ensuing year. Under these provisions, the yearly discharge fee shall be calculated and paid in full upon approval of an application to the commissioner for the first year of discharge, and at the one and two year anniversaries of the permit, the permittee may submit a recalculated discharge request using revised flow estimates for the ensuing year.
  - (iii) In order to operate under a temporary discharge permit as a qualified groundwater treatment system, the operator shall provide the commissioner with a copy of the proposed system's approval under the Massachusetts Contingency Plan (310 CMR 40.00).
  - (iv) Once the groundwater treatment system becomes operational, the operator thereof shall provide the Commissioner with monthly monitoring reports containing detailed information on the quality and quantity of system effluent, in accordance with the pertinent regulations of the city of Worcester and the district.

## **§ 20. Discharges Categorically Prohibited**

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;
- (b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the District's sewage treatment plant's effluent;
- (c) Any waters or wastes having a pH lower than 5.5 or in excess of 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of sewage works;
- (d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metals, sawdust, hair, oyster shells, lobster shells, clam shells, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, fleshing, entrails, paper dishes, cups, milk containers, and similar paper or plastic containers (either whole or ground by garbage grinders), and other similar materials.

## **§ 21. Discharges Prohibited by Commissioner**

- (a) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Commissioner that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect in the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance.
- (b) In forming an opinion as to the acceptability of these wastes, the commissioner shall give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
  - (i) any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150° F).
  - (ii) any water or waste containing fats, oils, or grease (FOG) or wax, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two degrees Fahrenheit (32° F) and one hundred fifty degrees Fahrenheit (150° F).
  - (iii) any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with

a motor of three-fourths (3/4) horsepower or greater shall be subject to the review and approval of the commissioner.

- (iv) any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (v) any waters or wastes containing iron, chromium, cadmium, copper, zinc, barium, arsenic, silver, mercury, lead, cyanide phosphates, sodium chlorate, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment plant exceeds the limits established by the commissioner for such material.
- (vi) any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established as necessary by the commissioner after treatment of the composite sewage to meet the requirements of the state, federal, and other public agencies or jurisdiction over such discharge to the receiving waters.
- (vii) any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the commissioner in compliance with applicable state or federal regulations.
- (viii) any waters or wastes having a pH lower than 5.5 or in excess of 9.5.
- (ix) materials which exert or cause:
  - a. unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride, sodium sulfate, and ferrous iron compounds);
  - b. excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
  - c. unusual biochemical oxygen demand (BOD), chemical oxygen demand (COD), or chlorine requirements in such quantities as to constitute a treatment problem for the sewage treatment plan;
  - d. unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- (x) waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge of effluent to the receiving waters.
- (xi) Discharge sources in accordance with § 12 and § 17.

**§ 22. Commissioner to Control Prohibited Discharges**

- (a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters or wastes contain the substances or possess the characteristics enumerated in the preceding section of this chapter, and which in the judgment of the commissioner, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the commissioner may:
  - (i) reject the waste;
  - (ii) require pretreatment to an acceptable condition for discharge to the public sewers;
  - (iii) require control over quantities and rates of discharge; and/or
  - (iv) require payment of addition fees to cover the added cost of handling and treating the wastes.
- (b) If the commissioner permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the commissioner, and subject to the requirement of all applicable codes, ordinances, and laws.

**§ 23. Obligations of Owners**

- (a) Grease traps and interceptors shall be provided in accordance with § 35 of this chapter.
- (b) Where pretreatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.
- (c) When required by the commissioner, the owner of any property serviced by a building sewer or other private sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters, and other appurtenances in said sewer to facilitate observation, sampling, and measurement of wastes. Such manhole, when required, shall be located in a safe and accessible place, and shall be installed by the owner so as to be safe and accessible at all times.

**§ 24. Measurement and Test Standards**

- (a) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association Inc., and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. Sampling shall be carried out by customarily accepted methods to reflect the effect of the constituents of the waters or wastes upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analyses involved will determine whether a twenty-four hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, biochemical oxygen

demand (BOD) and suspend solids analyses are obtained from twenty-four hour composites of all outfalls, whereas pH measurements are determined from periodic grab samples. Where necessary, equipment shall be provided to allow for automatic sampling and measuring. The aforesaid "Standard Methods for the Examination of Water and Wastewater" shall be maintained in the office of the commissioner and shall be available for public examination at reasonable times.

- (b) All industries discharging into a public sewer shall perform such monitoring of their discharges as the commissioner may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the commissioner. Such records shall be made available upon request by the commissioner and to other agencies having jurisdiction over discharges to the receiving waters.

#### **§ 25. Special Agreements**

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial or commercial concern whereby waters or wastes of unusual strength or character may be accepted by the city for treatment, subject to payment therefore, by the industrial or commercial concern.

#### **§ 26. Sewer User Charge System**

- (a) For the purposes of assuring that each recipient of wastewater collection and treatment of service within the city shall pay a proportionate share of the costs of operation and maintenance of the sewerage works, a user charge shall be levied against all those who discharge wastewater into the public sewer system. The revenue raised must cover at least the following expenses:
  - (i) operation and maintenance costs of the wastewater collection and treatment systems, which costs shall include labor, fuel, utilities, chemicals, supplies, tools, insurance, engineering and service contracts;
  - (ii) administrative and debt service expenses of the systems, including supervisory, clerical, accounting, personnel, legal services, supplies, and general expenses;
  - (iii) replacement or contingency amounts for the systems.
  - (iv) fines and penalties incurred by the city.
- (b) The charge per cubic foot shall be based upon a fraction (which may have the value of 1.0) of the metered amount of water used by each recipient who discharges wastewater into the sewerage system.
- (c) All users of the wastewater systems, including tax-exempt property, will be charged at the same rate per hundred cubic feet (ccf).
- (d) There may be a surcharge to commercial and industrial users when biochemical oxygen demand (BOD), suspended solids (SS) or other pollutant concentrations from a user exceed the range of concentration of these pollutants found in normal domestic wastewater, a surcharge added to the base charge shall be levied using the following formula.

$$Cs = (Bc(B) + Sc(S) + Pc(p)) Vu$$

Where:

Cs = a surcharge for wastewaters of excessive strength.

Vu = volume contribution from a user per unit of time.

Bc = Operation and Maintenance (O&M) cost for treatment of a unit of BOD.

B = concentration of BOD from a user above a base level.

Sc = O&M cost for treatment of a unit of SS.

S = concentration of SS from a user above a base level.

Pc = O&M cost for treatment of a unit of any pollutant.

P = concentration of any pollutant from a user above a base level.

- (e) There shall be a user charge adjustment for large users of water, which users can prove that their fraction of wastewater to water is less than the fraction used. The percentage of reduction shall be based upon the following formula.

$$\frac{X\% - Y\%}{X\%} = \text{percent reduction}$$

Where:

X = the fraction of wastewater to water meter reading.

Y = the fraction of wastewater to water proven by any industry, but not greater than 90%.

- (f) Industries which pay an industrial cost recovery charge will be credited for the amount attributable to the operation and maintenance costs shown on that billing.
- (g) The commissioner shall establish annually a sewer charge. Charges to users shall be levied at the same time as the water use billing.

**Sewer User Charge (per ccf)**

Minimum Charge	\$10.00
Basic Rate	\$3.97*

\*Amended June 27, 2006 - 8812 and June 12, 2007 - 9041

- (h) The sewer use charge for individuals ages 65 years and older who, (1) are owner occupiers of the residences in which they reside and, (2) qualify for the "Clause 41C, Elderly Person, Real Estate Exemption" under state law shall be subject to the exemption set forth in Chapter 7, § 16(e).\*

\*Ordained March 28, 2006 - 8762

**§ 27. Unpaid Bills - Interest**

Bills for sewer use charges remaining unpaid after the due date shall bear interest at the rate of fourteen percent per annum computed from the first day after the due date of said bill and shall be paid on the unpaid balance. An additional charge of five dollars shall be due if a demand notice is issued. Where interest charges are payable, they shall be added to and become a part of the real estate tax bill. Application for abatement of said charge and interest shall be filed with the commissioner in accordance with the procedures and standards delineated by the General Laws, chapter 83, §16E.

## **ENFORCEMENT**

### **§ 28. Interference with Sewage Works**

No person shall maliciously, willfully or negligently, break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works or any other property under the jurisdiction of the commissioner. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

### **§ 29. Trespass**

No unauthorized person shall enter or remain in or upon any land or structure under the jurisdiction of the commissioner. Any person violating this provision shall be subject to immediate arrest under charge of trespass.

### **§ 30. Inspection Powers**

The commissioner and his or her duly authorized agents bearing proper credentials and identification shall be permitted to enter all properties connected with the public sewers for the purposes of inspection, observation, measurement, sampling, and testing, all in accordance with the provisions of this chapter and to the extent permitted by and under the General Laws. They may inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, plating, or other industrial activity that contribute waters or wastes to the public sewers, but shall not order or demand information concerning any patented process or trade secret beyond that necessary to determine the kind, source, and amount of wastewater discharge from the industrial or commercial plant to the public sewers.

### **§ 31. Safety and Indemnification**

While performing the necessary work on private properties referred to in the foregoing section, the commissioner and his or her duly authorized agents shall observe all safety rules applicable to the premises established by the private property owners. Said private property owners shall be held harmless for injury or death to city personnel and the city shall indemnify the private property owner against loss or damage to its property by city personnel and against liability claims and demands for personal injury or property damage asserted against the private property owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the private property owner to maintain safe conditions.

### **§ 32. Sewer Easements**

The commissioner and his or her duly authorized agents bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly acquired easement for sewer purposes, which shall include, but not be limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly acquired easement pertaining to the private property involved.

### **§ 33. Notice of Violations Required**

Any person found to be violating any provision of this chapter, except as expressly provided otherwise, shall be served by the commissioner with written notice that states the nature of the violation and that provides a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

### **§ 34. Fines & Restitution**

- (a) Any person who shall continue any violation beyond the time limit provided for in the foregoing section shall be guilty of a misdemeanor, and on conviction thereof shall be fined in any amount not exceeding three-hundred dollars (\$300.00) for each violation and shall be liable to the city for any expense, loss, or damage suffered by the city by reason of such offense.
- (b) Each day in which any such violation shall continue shall be deemed a separate offense.

### **GREASE MANAGEMENT PROGRAM**

### **§ 35. Fat, Oil, and Grease Control**

(a) Purpose: This section establishes uniform maintenance and monitoring requirements for controlling the discharge of grease from food service and other facilities discharging into the city's wastewater collection system and commercial grease haulers. The objectives of this section are:

- (i) to prevent the introduction of excessive amounts of grease into the wastewater collection system.
- (ii) to prevent clogging or blocking of the city's sewer lines and the build-up causing backup and flooding of streets, residences, and commercial or industrial buildings.
- (iii) to implement a procedure to recover the costs incurred in cleaning and maintaining sewer lines and disposing of grease blockages,
- (iv) to implement a procedure to recover costs for any damage incurred by the city caused by grease blockages resulting in the flooding of streets, residences, or commercial and industrial buildings.
- (v) to establish administrative review procedures and reporting requirements.

(b) Applicability: The provisions of this section shall apply to all existing food service facilities that are located within the municipal boundaries of the city and to all food service facilities that begin operations within the municipal boundaries of the city on or after the effective date of this section. The provisions of this section shall also apply to all grease haulers providing service to any food service facility located within the city.

- (c) Grease Traps and Interceptors

- (i) Requirements: All food service facilities are required to have a grease trap or grease interceptor. The requirements in this section are in addition to any applicable requirements of the Uniform State Plumbing Code (248 CMR 10.00) and the State Environmental Code, Title 5 (310 CMR 15.230).

(1) New Facilities On or after the effective date of this section, food service facilities which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist, shall be required to install, operate, and maintain a grease interceptor or grease trap, if permissible, according to the requirements contained in this section. Grease interceptors or grease traps shall be installed and permitted prior to the issuance of a certificate of occupancy.

(2) Existing Facilities For the purposes of sizing and installation of grease interceptors, all food service facilities existing within the city prior to the effective date of this section shall be permitted to operate and maintain existing grease interceptors or grease traps, if permissible, provided their grease interceptors or grease traps are in efficient operating condition and comply with the requirements of this Section.

On or after the effective date of this section, the city shall require an existing food service facility to install, operate, and maintain a new grease interceptor or trap that complies with the requirements of this section or to modify or repair any noncompliant plumbing or existing interceptor or trap within ninety (90) days of written notification from the city when any one or more of the following conditions exist.

(A) The facility is found to be contributing oils and grease in quantities sufficient to cause line stoppages or necessitate increased maintenance of the wastewater collection system.

(B) The facility does not have a grease interceptor or trap.

(C) The facility has an undersized, irreparable or defective grease interceptor or trap.

(D) Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a plumbing permit to be issued by the city.

(E) The existing facility is sold or undergoes a change of ownership.

(F) The existing facility does not have plumbing connections to a grease interceptor or trap in compliance with the requirements of this section.

(G) The facility has not operated as a food service facility for 12 consecutive months prior to receiving Food Service Permit.

- (ii) Plumbing Connections: Grease interceptors or traps shall be located in the food service facility's lateral sewer line between all fixtures which may introduce grease into the sewer system and

the connection to the city's wastewater collection system. Such fixtures shall include but not be limited to, sinks, dishwashers, garbage disposals, automatic hood wash units, floor drains in food preparation and storage areas, and any other fixture which is determined to be a potential source of grease. Wastewater from sanitary facilities and other similar fixtures shall not be introduced into the grease interceptor or trap under any circumstances.

- (iii) Grease Traps: Grease traps shall be prohibited for new food service facilities, except for those facilities where inadequate space is available for the installation of a grease interceptor. Approval of the installation of a grease trap in lieu of a grease interceptor at a new food service facility shall meet the following criteria:
- (1) Trap design and location Grease traps shall conform to the standards in the Plumbing and Drainage Institute (PDI) Standards G101. Grease traps shall be installed in strict accordance with the manufacturers' instructions. Grease traps shall be equipped with a cover that can be opened for inspection and sampling and a mechanism for a secure closing.
  - (2) Trap capacity The capacity of the grease trap shall be related to the flow rate as indicated in Table 1 of the PDI Standard G101 document.
  - (3) Flow-through rate Flow-through rates shall be calculated in accordance with the procedures in the PDI Standard G101.
  - (4) Flow control device Grease traps shall be equipped with a device to control the rate of flow through the unit. The rate of flow shall not exceed the manufacturers' rated capacity recommended in gallons per minute for the unit.
  - (5) Particle Separator Grease traps shall be equipped with a device, prior to the grease trap, to control the amount of solids through the unit.
  - (6) Venting The flow-control device and the grease trap shall be vented in accordance with the local and state plumbing codes.
  - (7) Inspection, cleaning, and maintenance Each food service facility shall be solely responsible for the cost of trap installation, inspection, cleaning and maintenance. Each food service facility may contract with a grease hauler for cleaning services or it may develop a written protocol and perform its own grease trap cleaning and maintenance procedures, which must be approved by the department. Cleaning and maintenance must be performed when the total volume of captured grease and solid material displaces more than 25% of the total volume of the unit. Each food service facility shall determine the frequency at which their grease trap shall be cleaned, but all grease traps shall be opened and inspected, at least once per week, and cleaned and maintained at least once per month.

- (8) Inspection Grease traps shall be inspected by a city official, as necessary, to assure compliance with this section and to assure proper cleaning and maintenance schedules are being followed.
- (9) Repairs The food service facility shall be responsible for the cost and scheduling of all repairs to its grease trap(s). Repairs required by a city official shall be completed within 90 calendar days after receipt of the written notice of required repairs, unless the city approves a different schedule in writing.
- (10) Disposal Grease and solid materials removed from a grease trap shall be disposed of in a proper disposal container that will prevent its discharge during storage and transportation to a solid waste facility. The name and location of the disposal facility shall be verified by the food service facility, which shall be responsible for obtaining such information from the grease hauler.
- (11) Record keeping Each food service facility shall maintain a bound logbook in which a record of all grease trap maintenance is entered, including the date and time of the maintenance, amount of grease present, details of any repairs required and dates of repair completion and any other records pertaining to the grease trap. This logbook shall be made available for review upon request by the city official. Each food service facility shall also maintain a file on site which contains the following information:
- A. the (as-built) drawings of the plumbing system for new or renovated buildings and (if available) for existing buildings
  - B. records of inspections
  - C. copies of annual reports (submitted with Food Service Permit)
  - D. receipts (pumping, maintenance, repairs, etc.)
  - E. log of pumping activities
  - F. log of maintenance activities
  - G. grease hauler information
  - H. disposal information (including site name and location of disposal facility obtained from grease hauler)
  - I. monitoring data (including amount of grease present during inspection)

The file shall be available at all times for inspection and review by the city official.

- (iv) Grease Interceptors: Grease interceptors shall be installed at all new food service facilities except where physical space is limited as described in subsection (c)(iii), above. All new and existing grease interceptors shall meet the following criteria:
- (1) Interceptor design and location Grease interceptors shall have a minimum of two compartments and shall be capable of separation and retention of grease and storage of settled solids. Interceptor design shall conform to the requirements of the State Environmental Code, Title 5 (310 CMR 15.230), Pretreatment Units - Grease Traps, and the interceptors shall be PDI certified. A control manhole over each compartment for monitoring purposes shall be required and installed at the owner/operators sole

expense. Covers shall have a gas tight fit. The grease interceptor shall be designed, constructed and installed for adequate load-bearing capacity. Flow control devices shall be required where the water flow through the interceptor may exceed its rated flow. Interceptors shall be installed in a location outside of the building, which provides easy access at all times for inspections, cleaning, and proper maintenance, including pumping.

- (2) Interceptor capacity Grease interceptor capacity calculations shall be performed by each food service facility based on size and type of operation in accordance with State Environmental Code, Title 5 (310 CMR 15.230), Pretreatment Units - Grease Traps. Grease interceptors shall have a minimum depth of four feet and a minimum capacity of 1,000 gallons for any one unit, and shall have sufficient capacity to provide at least a 24-hour detention period for all kitchen flow. Where sufficient capacity cannot be achieved with a single unit, installation of grease interceptors in series is required. Interceptor capacity calculations shall be approved by the city official prior to the installation of the interceptor(s).

The capacity of the grease interceptor required for food manufacturing or processing facilities which are not covered by the State Environmental Code, Title 5 (310 CMR 15.230) shall be approved by the city official according to the mass and type of food prepared, the wastewater volume produced from food preparation or manufacture, total hours of operation per day and a load factor depending on the installed equipment.

- (3) Inspection, pumping, and maintenance Each food service facility shall be responsible for the costs of installing, inspecting, pumping, cleaning, and maintaining its grease interceptor. All food service facilities that have grease interceptors shall utilize a licensed septage hauler who has been approved by the city for pumping services. Pumping services shall include the initial complete removal of all contents, including floating materials, wastewater, and bottom sludges and solids from the interceptor. The return of gray water back into the grease interceptor from which the wastes were removed is allowable, provided that grease and solids are not returned to the interceptor and further provided that the licensed grease hauler has written authorization from the food service facility to return the gray water. Grease interceptor cleaning shall include scraping excessive solids from the walls, floors, baffles and all pipework. The licensed grease hauler shall wait at least 20 minutes to allow for inspection of the interceptor bottom and to allow for the interceptor waste to separate in the truck tank before attempting to re-introduce the gray water to the interceptor. It shall be the responsibility of each food service facility to inspect its grease interceptor during the pumping procedure to ensure that the interceptor is properly cleaned out and that all fittings and fixtures inside the interceptor are in working condition and functioning properly.

- (4) Interceptor pumping frequency Each food service facility shall have its grease interceptor(s) inspected at least once a month and pumped at least every three (3) months. There shall be a minimum period of eight (8) weeks between each required pumping. In

addition to required quarterly pumping, each food service facility is required to pump its grease interceptor whenever one of the following conditions occurs:

A. When the floatable grease layer exceeds six inches (6") in depth as measured by an approved dipping method, or;

B. When the settleable solids layer exceeds eight inches (8") in depth as measured by an approved dipping method or;

C. When the total volume of captured grease and solid material displaces more than 25% of the capacity of the interceptor as calculated using an approved dipping method, or;

D. When the interceptor is not retaining/capturing oils and greases, or the removal efficiency of the device, as determined through sampling and analysis, is less than eighty percent (80%).

- (5) Inspection Grease interceptors shall be inspected by a city official, as necessary, to assure compliance with the requirements of this section and to determine if proper cleaning and maintenance schedules are being adhered to.
- (6) Repairs Each food service facility shall be responsible for the cost and scheduling of all repairs to its grease interceptor(s). Repairs required by a city official shall be completed within 90 calendar days after receipt of the written notice of required repairs, unless the city approves a different schedule in writing.
- (7) Disposal Wastes removed from each grease interceptor shall be disposed of at a facility permitted to receive such wastes or at a location designated by the city for such purposes. Neither grease nor solid materials removed from interceptors shall be returned to any grease interceptor, private sewer line, or to any portion of the city's wastewater collection system or any other facility without prior written permission from the commissioner. The name and location of the disposal facility shall be verified by the food service facility, which shall be responsible for obtaining such information from the grease hauler.
- (8) Record keeping Each food service facility shall maintain a bound logbook in which a record of all interceptor maintenance is entered, including the date and time of the maintenance, amount of grease present, details of any repairs required, dates of repair completion and any other records pertaining to the interceptor. This logbook shall be made available for review upon request by the city official. Each food service facility shall also maintain a file on site which contains the following information:
  - A. the (as-built) drawings of the plumbing system for new or renovated buildings and (if available) for existing buildings
  - B. records of inspections
  - C. copies of annual reports (submitted with Food Service Permit)
  - D. receipts (pumping, maintenance, repairs, etc.)
  - E. log of pumping activities
  - F. log of maintenance activities

- G. grease hauler information
- H. disposal information (including site name and location of disposal facility obtained from grease hauler)
- I. monitoring data (including amount of grease present during inspection)

The file shall be available at all times for inspection and review by the city official.

- (v) Interceptor additives Any chemicals, enzymes, emulsifiers, live bacteria or other grease cutters or additives shall be approved by the commissioner prior to their use by the food service facility or the grease hauler. MSDS sheets and any other applicable information concerning the composition, frequency of use and mode of action of the proposed additive shall be sent to the city together with a written statement outlining the proposed use of the additive(s). Based upon the information received and any other information solicited from the potential user or supplier, the city shall permit or deny the use of the additive in writing. Permission to use any specific additive may be withdrawn by the city at any time.
- (vi) Alternative grease removal devices or technologies Alternative devices and technologies such as automatic grease removal systems shall be subject to written approval by the Commissioner prior to installation. Approval of the device shall be based on demonstrated (proven) removal efficiencies and reliability of operation. The City may approve these types of devices depending on manufacturers specifications on a case-by-case basis. The food service facility may be required to furnish analytical data demonstrating that grease discharge concentrations to the city's wastewater collection system will not exceed the limitation established in § 21 (b)(ii).
- (d) Food Service Facility Reporting
  - (i) Reporting requirements for food service facilities All food service facilities shall be required to submit maintenance and cleaning reports and other documentation of grease traps/interceptors as required in the city's *Application for Permit to Operate a Food Establishment*.
  - (ii) Annual reports of record keeping information shall be furnished with Food Application Renewals.
- (e) Inspections
  - (i) Entry Each food service facility shall allow the city official and other duly authorized employees or agents of the city bearing proper credentials and identification access at all reasonable times to all parts of the premises for the purpose of inspection, observation, photographing, records examination, measurement, sampling, and testing in accordance with the provisions of this Section. The refusal of any food service facility to allow the city official entry to or upon the facility's premises for purposes of inspection, sampling effluents, or inspecting and copying records, or performing such other duties as required by this section shall constitute a violation of this section.
  - (ii) First-time inspections The city official shall inspect food service facilities on both an unscheduled and unannounced basis or on a scheduled basis to verify compliance with the requirements of this

section. All food service facilities shall be inspected. Each food service facility will be inspected a first time by the city to collect information about the facility's grease traps/interceptor. During the inspection, information will be verified and the grease interceptor or trap will be inspected. Inspections shall also include all equipment, food processing, and storage areas and shall include a review of the processes that produce wastewater discharged from the facility through the grease interceptor/trap. The city official shall also inspect the interceptor/trap maintenance logbook and file, other pertinent data, the grease interceptor/trap and may check the level of the interceptor/trap contents and/or take samples as necessary. The city official shall record all observations in a written report.

- (f) Administrative enforcement and abatement
  - (i) No Further Action Required If all information is verified and the grease interceptor or trap is of proper type/size and in proper working condition in accordance with the provisions of this section, no further action will be required.
  - (ii) Written Notice If the grease interceptor or trap requires any maintenance, repairs, replacement, or corrections, the city official shall provide a written notice of violation within five (5) days of inspection. The food service facility shall have ninety (90) calendar days to correct all deficiencies identified by the city. Failure to do so may result in the suspension of the facility's Permit to Operate a Food Establishment.
  - (iii) Access Each food service facility shall provide clear access to its grease trap or interceptor for inspection and maintenance. Each food service facility shall have the necessary tools and/or equipment onsite and within clear view of grease traps to allow for quick access in the event of an emergency or for inspections. Upon the request of the city official, a representative from the food service facility shall open its grease trap and/or interceptor for inspection by the city official.
- (1) Notice of Violation A Notice of Violation (NOV) shall be issued to a food service facility for any one or more of the following reasons:
- A. Failure to properly maintain the grease interceptor or trap in accordance with the provisions of this section.
  - B. Failure to report significant changes in operations, or wastewater constituents and characteristics.
  - C. Failure to maintain a file of records on site at all times.
  - D. Failure to provide logs, files, records, or access for inspection or monitoring activities.
  - E. Any other failure to comply with the requirements of this section.
  - F. Discharge of grease into the sewer system in excess of 100 mg/L or resulting in sewer blockage.
- (iv) Notice of Violation Response Any food service facility issued a notice of violation shall respond to the Public Health Division in writing (ATTN: GREASE PROGRAM DEPT.) within fourteen (14) calendar days of receipt of the notice of violation and submit information describing how

the noncompliance occurred and what steps shall be taken to correct the deficiencies and/or prevent the re-occurrence of the noncompliance. Requirements for submittal shall include maintenance records, plans for installation or upgrade of grease interceptors, including time frames for preparation of plans, acquisition of necessary equipment, initiation of construction (including time for permit approval, where required), completion of construction, and a date for achievement of final compliance with this section

- (v) The food service facility shall have ninety (90) days from the Notice of Violation to perform corrective work. Once corrective actions have been made, the food service facility shall contact (within 90 days of notice of violation) the Public Health Division in writing (ATTN: GREASE PROGRAM DEPT.). The city shall perform a re-inspection to confirm that all deficiencies have been corrected.
- (vi) Time-Extension If the food service facility cannot complete the required repairs or maintenance within ninety (90) days from the Notice of Violation to perform corrective work, the food service facility may apply for a one-time extension. The facility must provide proof that a "good faith effort" was made to contact/schedule a contractor to perform work. The time extension procedure shall be as follows:
  - (1) The food service facility shall submit an application for a time extension on a form provided by the city along with the appropriate application fee identified in the city's Fee Schedule.
  - (2) The application shall include proof that a "good faith effort" was made to contact/schedule a contractor to perform work.
  - (3) The application shall include the next date and time the facility intends to have the corrective work completed.
- (vii) Re-inspections The city official shall re-inspect food service facilities which received deficiency notices after the original inspection. The city official shall inspect any repairs or other deficiencies and shall provide written notice of compliance or non-compliance as the case may be. In the event that the food service facility has returned to compliance with all of the deficiencies, there shall be no further action required. If the facility is not in compliance at the second inspection, the city official shall provide a written notice of suspension proceedings of the Permit to Operate a Food Establishment.
- (viii) Suspension Proceedings The food service facility shall be required to attend a hearing before the Director of Public Health and will be allowed to dispute the notice to suspend the Permit to Operate a Food Establishment. The Director of Public Health shall determine if the food service facility's Permit to Operate a Food Establishment shall be revoked or whether to allow the establishment to operate with conditions. The food service facility will not be allowed to operate without a valid Permit to Operate a Food Establishment.
- (ix) Re-apply for Permit to Operate a Food Establishment The food service facility shall be required to re-apply for a Permit to Operate a Food Establishment once this permit has been revoked by the Director of Public Health. The food service facility shall provide proof that all previous violations have been corrected and shall be subject to a re-inspection by the city prior to permit approval.

## CHAPTER SIX

### WETLANDS PROTECTION

- § 1. Purpose
- § 2. Jurisdiction
- § 3. Exceptions
- § 4. Application
- § 5. Notice and Hearing
- § 6. Coordination
- § 7. Permits, Determinations and Conditions
- § 8. Appeals
- § 9. Certificate of Compliance
- § 10. Regulations
- § 11. Definitions
- § 12. Time of Receipt
- § 13. Security
- § 14. Enforcement
- § 15. Burden of Proof
- § 16. Wetlands Protection Act
- § 17. Prior Violations

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#### § 1. Purpose

The purpose of this ordinance is to protect the wetlands, related water resources, and adjoining land areas in the city by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution, fisheries, and wildlife habitat (collectively, the "wetland values protected by this chapter").

#### § 2. Jurisdiction

Except as permitted by the Conservation Commission or as provided in this ordinance, no person shall remove, dredge, build upon, or alter the following areas: within one hundred feet of any freshwater wetland, bordering vegetated wetland, marsh, wet meadow, bog or swamp; within one hundred feet of any bank; any lake, river, pond, or stream; within one hundred feet of any lake river, pond, or stream; any land under said waters; any land subject to flooding; or within one hundred feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component discharging to any lake,

pond, river stream, or wetland. In addition, any project in progress, which is not serviced by a combined sewer system, and from which a visible occurrence of silted/polluted effluent is entering any of the jurisdictional areas in the previous sentence, regardless of any exceptions in § 3, shall be placed under the jurisdiction of the Conservation Commission and is subject to the permit and application required by this ordinance.

### § 3. Exceptions

(a) The permit and application required by this ordinance shall not be required for certain categories of work that are within one hundred feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component, but are not within any other areas of jurisdiction as described in § 2 herein. These categories of work include maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electricity, gas, water, telephone, telegraph, or other telecommunication services. These categories of work shall also include the following activities when performed by the city of Worcester, its agents, servant, or employees: street resurfacing and reconstruction; maintenance of private streets; sidewalk maintenance and construction; sanitary and surface sewer line maintenance and construction; maintenance of storm drainage systems, including catch basins; and the maintenance and construction of water mains. Notwithstanding the above, the work specifically excepted under this paragraph shall be performed in such a manner so that sediment shall be prevented from entering catch basins or the other areas of jurisdiction described in § 2 herein.

(b) The permit and application required by this ordinance shall not apply to any project which involves no ground disturbance.

(c) For any project to be serviced by a combined sewer system which is placed under the jurisdiction of the Conservation Commission in § 2 by its location "within one hundred feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component," the permit and application required by this ordinance shall not apply. For the purposes of this ordinance an area serviced by combined sewer system consists of any area where storm water normally enters the sewer system and flows to the Upper Blackstone Water Pollution Abatement District treatment facility where it is treated along with sanitary sewage.

(d) For any project involving less than 10,000 square feet of ground disturbance in areas with slopes less than 15% which is placed under the jurisdiction of the Conservation Commission in § 2 by its location "within one hundred feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component," the permit and application required by this ordinance shall not apply.

(e) For any project within the Downtown Commercial Area Revitalization District (CARD) which is placed under the jurisdiction of the Conservation Commission in § 2 by its location "within one hundred feet of any existing or proposed inlet to any storm drain, catch basin, or other storm drain system component", the permit and application required by this ordinance shall not apply. The CARD boundaries shall be those designated by the Executive Office of Communities and Development.

(f) The permit and application required by this chapter shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that the work is to be performed by or has been ordered to

be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within twenty-four hours after commencement; provided that the Conservation Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Conservation Commission for the limited purposes necessary to abate the emergency; and provided that within twenty-one days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided in this ordinance. Upon failure to meet these and other requirements of the commission, the commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

(g) The Conservation Commission may, by regulations adopted by the commission pursuant to § 8 of this chapter, establish categorical exceptions of activities proposed to be conducted in areas within 100-feet of any existing or proposed inlet to any storm drain, catch basin, or other component of a stormdrain system for which categories of activities the permit and application required by this chapter shall not be required.

(h) Other than stated in this section, the exceptions provided in the wetlands protection act shall not apply.

#### **§ 4. Applications**

(a) Written application shall be filed with the Commission to perform activities regulated by this ordinance affecting resource areas protected by this ordinance. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this ordinance. For activities occurring on any Priority Development Site designated by the City Council pursuant to G.L. c.43D, the aforesaid application shall be filed at the time of application for a special permit or for site plan review.\*

\*Amended April 29, 2008 - 9151

(b) The commission in an appropriate case may accept as the application and plans under this ordinance the notice of intent and plans under the wetlands act.

(c) Any person desiring to know whether or not a proposed activity or an area is subject to this chapter may in writing request a determination from the commission. Such a request for determination shall contain data and plans specified by the regulations of the commission.

(d) At the time of an application or request the applicant shall pay a filing fee specified in regulations of the commission. In addition, the commission may require the applicant to pay the costs and expenses of any expert consultant chosen by the commission and deemed necessary by the commission to review the application or request. Costs to the applicant under this section may not exceed a maximum of two thousand five hundred dollars.

#### **§ 5. Notice and Hearings**

(a) Any person filing a notice of intent or a request for determination of applicability with the commission at the same time shall provide notice thereof in accordance with the wetlands act.

(b) The commission shall conduct a public hearing on any application or request for determination, with notice given at the expense of the applicant, five working days prior to the hearing, in a newspaper of general circulation in the city.

(c) The Commission shall commence the public hearing within forty-five (45) days from receipt of a completed application or request for determination, provided, however, that said public hearing shall be commenced within twenty-one (21) days of receipt thereof for activities occurring on any Priority Development Site designated by the City Council pursuant to G.L. c.43D. If the Commission fails to comply with this provision, the project shall be deemed a constructive grant approval under this ordinance by the Commission.\*

\*Amended April 29, 2008 - 9151

(d) The Commission shall issue its permit or determination in writing within thirty-five (35) days of the close of the public hearing thereon, provided, however, that the public hearing shall normally be closed and a determination and permit, if necessary, shall normally issue no later than 150 days following commencement of said public hearing for activities occurring on any Priority Development Site designated by the City Council pursuant to G.L. c.43D, subject to extension as per 400 CMR 2.09.\*

\*Amended April 29, 2008 - 9151

(e) Where appropriate jurisdiction exists, the commission shall combine its hearing under this ordinance with the hearing conducted under the wetlands act.

(f) The commission shall have the authority to continue the hearing to a date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant, deemed necessary by the commission in its discretion, or comments and recommendations of boards and officials listed in § 6 herein. In the event the applicant objects to a continuance, the hearing shall be closed and the commission shall take action on such information as is available. If a continued hearing is postponed for more than thirty-five days due to a lack of quorum for the Conservation Commission, the project shall be deemed a constructive grant approval under this chapter by the commission.

(g) For any constructive grant approval, the applicant, who seeks such approval shall notify the commission, in writing, by certified mail or hand delivery, within fourteen days from the expiration of the applicable deadline.

## **§ 6. Coordination**

Any person filing a notice of intent with the commission shall provide a copies thereof to the city boards and officials as required by the regulations of the commission. The commission reserves the right to solicit comments from city boards and officials to assist in evaluation of notices of intent. The applicant shall have the right to receive any such comments and recommendations and to respond to them at a public hearing of the commission.

## **§ 7. Permits, Determinations and Conditions**

(a) If the commission after a public hearing determines that the activities which are the subject of the application are likely to have a significant effect upon the wetland values protected by this chapter, the commission, within thirty-five days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, then the commission shall impose conditions which the commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. One such condition shall be that the person agrees to allow the commission, its agents, servants, and employees to enter said property for periodic inspections to monitor compliance with such conditions.

(b) The commission may deny a permit for failure to meet the requirements of this chapter; for failure to submit necessary information and plans requested by the commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the commission; for failure to avoid or prevent unacceptable significant effects upon the wetland values protected by this chapter; and where no conditions are adequate to protect said values. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

(c) A permit shall expire three years from the date of issuance. Notwithstanding the above, the commission, in its discretion, may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the commission. Any permit may be renewed for additional one year periods, provided that a request for a renewal is received in writing by the commission prior to thirty days of expiration.

(d) The commission may revoke or modify a permit issued under this chapter after public notice and public hearing, and notice to the holder of the permit, if in the opinion of the commission the person is acting contrary to G.L. c. 131 or this chapter.

(e) The commission in an appropriate case may combine the permit or other action on application issued under this ordinance with the order of conditions issued under the wetlands act.

## **§ 8. Appeals**

(a) Appeal from a decision of the Conservation Commission acting under authority of G.L. c. 131, § 40A is to the Department of Environmental Protection pursuant to the Code of Massachusetts Regulations. Appeal from a decision of the Conservation Commission acting under authority of this chapter shall be taken in accordance with law to the superior court or other body of competent jurisdiction. Any such appeal shall be taken within ten days from the date from the receipt of such decision and shall not relieve the individual of the responsibility of taking an appeal to Department of Environmental Protection if such is required under said regulations.

(b) If the commission issued a positive determination of applicability, then no work may proceed until the appeal has been decided, and all appeal periods have elapsed. If the commission issued a negative determination of applicability, then work may proceed at the applicant's risk upon written notice to the commission. No work may proceed until the appeal on the commission's decision on a notice of intent has been decided and all appeal periods have elapsed.

## **§ 9. Certificate of Compliance**

Within twenty-one days of the receipt of a written request by the applicant or the owner of the property for a certificate of compliance, the commission shall grant such request if the activity or portions thereof described in the notice of intent and plans complies with the order of conditions imposed pursuant to requirements solely under this ordinance. The certificate of compliance shall state that the activity, or portions thereof, has been completed in accordance with such order.

## **§ 10. Regulations**

After public notice and public hearing the commission shall promulgate rules and regulations to effectuate the purposes of this ordinance. These regulations shall be promulgated prior to the effective date of this chapter. A failure by the commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this ordinance.

## **§ 11. Definitions**

The following definitions shall apply in the interpretation and implementation of this chapter. For any terms not defined in this ordinance or the regulations thereunder, the definitions used in the Wetlands Protection Act and its subsequent regulations shall apply:

"person" - shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to municipal ordinances, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

"alter" - shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this chapter:

- (1) removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
- (2) changing of preexisting drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;
- (3) dumping, discharging or filling with any material which may degrade water quality;
- (4) placing of fill, or removal of material, which would alter elevation;
- (5) driving of piles, erection of or additions to buildings or structures of any kind;
- (6) placing of obstructions or objects in water;

- (7) removal of vegetation from a combined total area exceeding ten thousand square feet on a single or adjacent lots;
- (8) changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water; but specifically excluding the use of de-icing materials and chemicals for roadway maintenance during the winter months;
- (9) any activities, changes or work which may cause or tend to contribute to the pollution of any body of water or ground water.
- (10) for the purposes of this ordinance more than one contiguous area under development constitutes a single project.

"land subject to flooding" shall include:

(1) bordering land subject to flooding defined as a low, flat area adjacent to and inundated by flood waters rising from creeks, rivers, streams, ponds, or lakes, also defined in the wetlands act;

(2) isolated land subject to flooding defined as an isolated depression or closed basin without an inlet or an outlet which at least once a year confines standing water to a volume of at least 1/8 acre-feet.

"wetlands protection act", or "wetlands act", shall refer to G.L. c. 131, § 40.

#### **§ 12. Time of Receipt**

The date of receipt of any request for determination, notice of intent, or other filing requesting action by the commission shall be the date it is received by the office of the commission.

#### **§ 13. Security**

(a) As part of a permit issued under this chapter, in addition to any security required by any other municipal or state board, agency or official, the commission may require that the performance and observance of the conditions imposed hereunder be secured wholly or in part by one or more of the methods described below:

- (1) by a proper bond or deposit of money or other undertaking of financial responsibility sufficient in the opinion of the commission and subject to approval by the city manager and the city solicitor;
- (2) by a conservation restriction, easement or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

(b) Where appropriate jurisdiction exists, the commission may accept one form of security to bind performance under this ordinance and the wetlands act.

#### **§ 14. Enforcement**

(a) The commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this chapter and may make or cause to be made such examinations, surveys or samplings as the commission deems necessary.

(b) The commission shall have the authority to enforce this chapter, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions.

(c) The city solicitor shall represent the commission in any judicial proceeding in which it is a party.

(d) Upon request of the commission, the city manager and the city solicitor shall take legal action for enforcement.

(e) Any person who violates any provision of this chapter, regulations thereof, or permits issued thereunder, shall be punished by a fine of not more than three hundred dollars. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of this chapter, regulations, or permit violated shall constitute a separate offense.

(f) In the alternative to criminal prosecution, the commission may elect to utilize the non-criminal disposition procedure set forth in G.L. c. 40, § 21D and chapter fifteen of these Revised Ordinances.

#### **§ 15. Burden of Proof**

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the application will not have an unacceptable significant effect upon the wetland values protected by this chapter. Failure to provide adequate evidence to the commission supporting this burden shall be sufficient cause for the commission to deny a permit or grant a permit with conditions.

#### **§ 16. Wetlands Protection Act**

This chapter is adopted under the Home Rule Amendment of the Massachusetts Constitution and the home rule statutes, independent of the wetlands act and regulations thereunder.

#### **§ 17. Prior Violations**

Any such person who purchases, inherits or otherwise acquires real estate upon which work has been done in violation of the provisions of this ordinance or in violation of any order issued pursuant to this ordinance shall forthwith comply with any such order, or restore such real estate to its condition prior to any such violation; provided however that no such action, civil or criminal, shall be brought against such person unless commenced within three years following the date of acquisition of the real estate by such person.

CHAPTER SEVEN

SAFE DRINKING WATER

- § 1. Powers and Duties of Commissioner
  - § 2. Water Operations Property
  - § 3. Repair in Lines
  - § 4. Height of Reservoirs
  - § 5. Record of Water Users
  - § 6. Examination of Bills and Expenditures
  - § 7. Reports
  - § 8. Applications for Use of Water
  - § 9. Cost of Furnishing and Maintaining Service Pipes
  - § 10. Furnishing, Laying and Repairing Pipes
  - § 11. Injuries to Service Pipes
  - § 12. Opening or Closing Service Stops at Mains
  - § 13. Access to Premises of Users
  - § 14. Prevention of Waste
  - § 15. Meters
  - § 16. Water Rate Schedule
  - § 17. Payment of Water Bills
  - § 18. Shut-Offs
  - § 19. Fire Suppression Pipes
  - § 20. Backflow Preventor Inspection Fee
  - § 21. Water Connection Permit Fee
  - § 22. Regulations
- 

§ 1. Powers and Duties of Commissioner

(a) The commissioner of public works (who shall hereinafter be referred to as "commissioner") shall have the care and control of all ponds, streams, waters, reservoirs, aqueducts and other property acquired or held by the city for the purpose of obtaining or furnishing a supply of pure water for the use of its inhabitants and shall maintain the same in good order and condition, shall use and operate the same and furnish all supplies required therefor, shall take all measures necessary to protect and preserve the purity of all waters, shall purchase or requisition and lay and maintain all pipes, conduits and other fixtures and appliances necessary for obtaining or supplying water for the inhabitants of the city, and shall furnish, test, set and repair all water meters.

(b) The commissioner shall:

(1) render bills for the use of water according to such tariffs as may be established by the city council;

(2) submit such bills to the city treasurer for collection;

(3) see that all water meters in use measure accurately;

(4) order off all meters that in his judgment may need repairing;

(5) make abatements of charge for water in all proper cases;

(6) see that all water service is provided through metered lines;

(7) exercise a constant supervision over the use of water and may employ such assistants as may be required.

## **§ 2. Water Operations Property**

The commissioner shall keep an inventory of all tools, pipes, materials and other property under the care custody and control of the department of public works - water operations.

## **§ 3. Repair in Lines**

The commissioner shall repair all leaks or breaks from any cause in any main, pipe, hydrant, gate valve, or other appurtenance attached to the works, and when, in the performance of these repairs, it becomes necessary to shut off the water from any hydrant, shall give immediate notice to the fire department, as well as notify all takers thus to be deprived of water, except in case of emergency. The commissioner shall report to the fire department when the repairs have been completed, and the water supply turned on; and shall repair all damage done to any street, sidewalk, sewer or other public property.

## **§ 4. Height of Reservoirs**

The commissioner shall keep a daily record of the height of the water in the reservoirs of the city.

## **§ 5. Record of Water Users**

The commissioner shall keep suitable records, in which shall be entered the names of all persons who take water, the kind of building in which it is taken, the name of the street and the number thereon, the nature of the use and the amount assessed.

## **§ 6. Examination of Bills and Expenditures**

The commissioner shall examine and approve all bills for expenditures in water operations before they shall be approved by the city auditor.

## **§ 7. Reports**

(a) The commissioner shall, annually, report to the city manager the amount of pipe laid, giving the name of the street, the number of gates and

hydrants set during the year and the number of service pipes put in. The report shall also include the appraisal value of all real and personal property in his charge and a statement of the number of water takers, the number and kind of meters supplied during the previous municipal year, the number and kinds of meters in use, the number of cases where the water has been shut off and the number and amount of abatements which have been made during the preceding municipal year.

(b) The commissioner shall report to the fire department the location or relocation of any hydrant or water main as soon as it is in service.

#### **§ 8. Applications for Use of Water**

All applications for the use of city water must be made at the office designated by the commissioner, in the form prescribed, stating truly and fully the various uses to which the water is to be applied, and signed by the owner of the premises to be supplied or his or her properly authorized agent. The applicant shall make the required deposit.

#### **§ 9. Cost of Furnishing and Maintaining Service Pipes**

All service pipe and its appendages laid in the streets shall be furnished and maintained at the expense of the city.

#### **§ 10. Furnishing, Laying and Repairing Pipes**

(a) All pipes and other fixtures on the premises from the property line to the outlet side of the meter shall be furnished and laid by the city at the expense of the owner of the property, or the commissioner may authorize the owner to have this work done by the owner's plumber, in which case all materials used and work done shall be subject to the specifications, inspections and tests of the department of public works. Such pipes shall be maintained and kept in repair by the department of public works at the expense of the owner, or may be maintained and kept in repair by the owner's plumber at the expense of the owner if so ordered by the commissioner.

(b) All water takers shall be liable for such repairs of the fixtures upon the premises occupied or owned by them as shall be deemed necessary by the commissioner to prevent waste of water.

#### **§ 11. Injuries to Service Pipes**

All damages to service pipe, street mains, hydrants or other fixtures caused by excavation in putting in any sewer, drain or other pipe, shall be chargeable to the owner of the premises for whom such work is done.

#### **§ 12. Opening or Closing Service Stops at Mains**

All persons shall be prohibited from opening or closing any service stop at the mains without permission from the commissioner.

#### **§ 13. Access to Premises of Users**

The commissioner, or any employee or agent acting under authority of the commissioner, shall have access at all reasonable times to all premises where water is used, for the inspection or repair of the fixtures, setting, testing or repairing meters, and shutting off the water from any delinquent taker by

closing any faucet or cutting any pipe or pipes necessary to effect the object desired.

#### **§ 14. Prevention of Waste**

It shall be the duty of the commissioner at all times to be diligent to prevent waste of city water and to make such examinations, investigations and tests as to such waste, arising from all causes, as shall cause the most economical use of water, and no person shall permit or allow any waste of water.

#### **§ 15. Meters**

(a) The size, type and location of all water meters shall be determined by the commissioner.

(b) All new construction requiring the use of metered water, including the rehabilitation, remodeling, modification or redesign of existing structures, shall provide for the installation of remote reading water meter. The cost of equipment and installation of such meter shall be at the expense of the property owner.

(c) The commissioner shall be responsible for all repair, replacement and maintenance, including the expense thereof, of water meters.

(d) No person except an agent authorized by the commissioner shall at any time remove or repair any meter or fixture connected therewith, which has been set or used by the department of public works.

(e) The commissioner shall assess a charge of twenty-three dollars against water takers for the removal and testing of any residential water meter which has been found to register water usage accurately.

(f) The commissioner shall keep a history of each meter showing make, the style, size, number, date purchased, location, date when set, reading at such date and record of tests, and the location, reading and date when reset, and also a description of all repairs.

#### **§ 16. Water Rate Schedule**

(a) Unless otherwise provided by these Revised Ordinances, no person shall take water supplied by the city without payment of the fees and charges established by this section. On all premises where meters have been set, the owner of the premises shall pay the rates according to the schedule contained herein for the entire amount of water used upon such estates, irrespective of leases or individual consumers.

(b) The rates for the supply of water established by this section shall have the following definitions:

(i) "Minimum" - a charge to maintain a water service connection for any one calendar month period regardless of the amount of water taken.

(ii) "Basic" - a charge for each one hundred cubic fee of water supplied through any one meter servicing property located within the geographic boundaries of the city.

- (iii) "Outside City Limits" - a charge for each one hundred cubic feet of water supplied through any one meter servicing property located outside of the geographic boundaries of the city of Worcester, in the event such service is authorized by vote of the city council.
- (iv) "Fire Suppression" - an annual charge per diameter inch of the pipe utilized to supply water to any fire suppression system in any structure or building located within the geographic boundaries of the city.
- (v) "Fire Suppression - Outside City Limits" - an annual charge per diameter inch of the pipe utilized to supply water to any fire suppression system in any structure or building located outside of the geographic boundary of the city.

(c) The rates for water shall be as follows:

1. Minimum . . . . .	\$ 1.50
2. Basic . . . . .	\$ 2.74 *
3. Outside City Limits . . . . .	\$ 3.15 **
4. Fire Suppression . . . . .	\$ 89.00 ***
5. Fire Suppression (Outside City Limits). . . . .	\$149.00 ***

**\*Amended July 23, 1996 - 7036, May 9, 2000 - 7894, June 19, 2001 - 8083, July 16, 2002 - 8230, June 29, 2004 - 8496, June 27, 2006 - 8811 and June 12, 2007 - 9040**

**\*\*Amended July 23, 1996 - 7036, May 9, 2000 - 7894 and June 29, 2004 - 8496**

**\*\*\*Amended September 3, 2002 - 8234**

(d) No charge shall be made against the city for water taken for its use; nor shall any charge be made for water used from hydrants for extinguishing fires.

(e) The water use charges assessed herein, and the sewer use charges assessed under Chapter 5, § 26, for individuals ages 65 years and older who, (1) are owner occupiers of the residences in which they reside and, (2) qualify for the "Clause 41C, Elderly Person, Real Estate Exemption" under state law shall be automatically exempted up to thirty-seven dollars and fifty cents (\$37.50) per each three month water and sewer use charges bill. The exemption shall be applied first to the applicable water use charges, and the balance of the thirty-seven dollars and Fifty cents (\$37.50) exemption, if any, shall be applied against the sewer use charges. \*

**\*Amended June 19, 2001 - 8083, Amended July 16, 2002 - 8230, Amended June 29, 2004 - 8496, Amended March 28, 2006 - 8763, Amended June 27, 2006 and Amended March 28, 2006 - 8673**

(f) Unless otherwise specified in its text, any amendment to the rates established herein, or the sewer use rates established by section twenty-six of chapter five of these Revised Ordinances, shall be effective when adopted and

shall apply to all bills issued after such effective date regardless of the date the water was consumed or the sewer system utilized. \*

\*Amended July 23, 1996 - 7036

(g) Nothing herein shall prevent the city from establishing by contract with such individual towns, districts or entities as may be located outside of the geographic boundaries of the city a contract rate for water delivered outside of the city limits if any such contract rate is approved by order of the city council.

#### **§ 17. Payment of Water Bills**

(a) Water bills shall be issued to water takers upon such schedule and with such frequency as may be established from time to time by the commissioner; provided, however, that no initial water bill shall cover a period of time less than one calendar month or greater than one year. An such water bill schedule established by the commissioner may specify a different billing schedule for metered rates, flat rates, minimum charges and other charges.

(b) The due date for any water bill, including bills for meters or service pipe, materials and labor furnished, shall be the thirtieth day after the mailing of notice by the city treasurer to the person liable therefore that the bill for the same is ready for payment at the office of the city treasurer.

(c) Bills for metered water rates remaining unpaid after the due date shall bear interest at the rate of fourteen per cent per annum computed from the first day after the due date of said bill and shall be paid on the unpaid balance. An additional charge of five dollars shall be due if a demand notice is issued. Where interest and charges are payable, they shall be added to and become a part of the real estate tax bill. Application for abatement for said interest charges shall be filed with the commissioner of public works in accordance with the procedures and standards delineated in G.L. c. 40, §42E.

#### **§ 18. Shut-Offs**

(a) No damages shall be allowed any taker for shutting off water for the purpose of doing ordinary repairs on pipes, gates, hydrants or other fixtures, adding or inserting new ones, changing pipes at any time from one size to another, or lowering and raising pipes in any street or highway.

(b) Twenty-four hours' notice shall be given to all takers before their supply of water shall be cut off for purposes set out in the preceding section, except in cases of great emergency.

(c) If bills for water, meters or service pipe, materials or labor furnished are not paid within forty days notice from the city treasurer that the same are at his office, ready for payment, the water may be shut off from the premises, supplied and shall not be turned on again until all bills are paid or a payment plan acceptable to the city treasurer is arranged, and in addition thereto, any fees established by the commissioner for the expense of shutting off and for the expense of letting on the water shall be added to the amount due from the delinquent water taker.

(d) Once the commissioner, or any employee authorized by him, has posted notice on the premises that water is to be shut off for the nonpayment

of bills, any fee established by the commissioner for the expense of shutting off the water shall become due and payable and shall be part of the bill.

(e) The provisions of this section shall apply to all premises supplied with water, whether the premises are occupied at the time the bills accrued or by other persons.

(f) In addition to the imposition of any penalty provided for in these Revised Ordinances, the commissioner may order the supply of water shut off from any water taker who fails to comply with any requirement of this chapter, including the requirements imposed by sub-section (g) of this section.

(g) All water-takers shall comply with the requirements and restrictions imposed as part of an emergency water conservation plan adopted under a state of water emergency declared under G.L. c. 21G, §15 or G.L. c. 40, §41A. Each day that any such violation occurs shall constitute a separate offense.

(h) Water takers shall be charged for shutting off and for turning on water at the street mains when said work is required by said water takers. Water takers shall be charged for all services rendered upon their premises for thawing frozen pipes, repairing the same in any manner or removing obstructions therefrom.

#### **§ 19. Fire Suppression Pipes**

The entire expense of installation and maintenance of fire suppression pipes, including labor and materials unfurnished in connection therewith, in any street or way shall be borne by the property owner receiving the benefit of such fire suppression pipes.

#### **§ 20. Backflow Preventor Inspection Fee**

For each backflow preventor inspection conducted by the city pursuant to regulations of the state department of environmental protection, the individual requesting such inspection shall pay the fee established by the commissioner of public works.

#### **§ 21. Water Connection Permit Fee**

No person shall make or attempt to make any connection or repairs, or undertake any project, involving the water system of the city without first obtaining a written permit from the department of public works. Applications for a water connection work permit shall be made on a form prescribed by the commissioner. The commissioner may impose reasonable conditions and limitations concerning work to be performed under such permit, including a requirement that the applicant post a bond or other forms of surety, indemnity and evidence of adequate insurance coverage with the commissioner before such permit is issued. No permit shall be issued unless the applicant has paid the fee established by the commissioner.

#### **§ 22. Regulations**

The commissioner is hereby authorized to promulgate regulations to implement this chapter.

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**§ 1. Enforcement - (Amended October 8, 2002 -8259)**

Unless specifically provided otherwise herein, the provisions of this chapter shall be enforced by the commissioner of public health, the director of public health, the commissioner of code enforcement, the director of code enforcement, any duly authorized member of the department of public health or the department of code enforcement, by any police officer, or by any other officer or employee of the city specifically authorized in writing by the city manager. Any such enforcing officer or person may utilize any and all available methods of enforcing the provisions of this chapter including, but not limited to: criminal process, non-criminal disposition, the issuance of orders or any other administrative actions.

**§ 2. Distribution of Tobacco Products**

(a) No person in the business of selling or otherwise distributing cigarettes or other tobacco or smoking products for commercial purposes, or any agent or employee of such person, shall in the course of such business, distribute any cigarettes or other tobacco or smoking products free to any person or persons on any public street or sidewalk, or in any public park or playground, or any other public ground, or in any public building in the city.

(b) Any person who violates the provisions of this section shall be punished by a fine of not less than twenty nor more than fifty dollars for each violation. Every hour or part thereof in which a person or persons engages in the conduct prohibited by this section of the ordinance shall constitute a single and separate violation.

**§ 3. Tobacco Control Ordinance - (Amended April 30, 1996 - 6933)**

(a) Declaration of Findings and Policy. There exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat; and at least one-half of all smokers begin smoking before the age of eighteen; and an estimated 3,000 minors begin smoking every day in the United States; and nicotine in tobacco has been found by the surgeon general to be a powerfully addictive drug; and despite state and local laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products continues to be a major problem; and a comprehensive city ordinance requiring proof of age in order to purchase tobacco products is necessary in order to restrict the access of minors to tobacco products in the interest of public health; now, therefore, it is the policy of the city of Worcester to discourage minors from experimenting with tobacco and to make tobacco products less accessible to minors.

(b) Definitions. For purposes of this section,

**"director" shall mean the director of public health of the city of Worcester.\***

**\*Amended October 8, 2002 - 8259 and Amended November 26, 2002 - 8293**

"licensed liquor establishment" shall mean any establishment which has been licensed to sell alcoholic beverages under chapter one hundred thirty-eight of the General Laws.

"minor" shall mean any individual who is under the age of eighteen.

"person" shall mean any individual, employer, employee, retail store manager, retail store owner, or the owner or operator of any establishment engaged in the sale of tobacco products.

"self service display" shall mean any display of tobacco products which is so located such that said products are accessible to customers without assistance from an employee or store personnel.

"tobacco products" shall mean cigarettes, cigars, chewing tobacco, pipe tobacco, snuff or tobacco in any of its forms.

"vending machine" shall mean any automated, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.

(c) Sales to Minors Prohibited

(1) No person shall sell, attempt to sell, or otherwise distribute or attempt to distribute a cigarette or other tobacco product to a minor.

(2) No person shall sell or permit the sale of tobacco products unless the location at which the tobacco products are available for purchase is posted with a notice at least six inches by eight inches in size which is clearly visible to anyone purchasing such products and which states:

Whoever sells a cigarette, chewing tobacco, snuff or any tobacco in any of its forms to any person under the age of eighteen or, not being his parent or guardian, who gives a cigarette, chewing tobacco, snuff or tobacco in any of its forms to any person under the age of eighteen shall be punished by a fine of not less than one hundred dollars for the first offense, not less than two hundred dollars for a second offense and not less than three hundred dollars for any third or subsequent offense.

Said notice must be printed in compliance with G.L. c. 270, §§ 6 & 7 and shall be available upon request from the **director** \*.

**\*Amended October 8, 2002 - 8259**

(3) A person selling tobacco products shall request and examine identification from any purchaser suspected of being a minor, and in such cases, shall positively establish the age of the purchaser as eighteen years or older before allowing the purchase.

(d) Sale & Distribution of Tobacco Products Regulated

(1) No person in the business of selling or otherwise distributing cigarettes or other tobacco products for commercial purposes, or any agent or employee of such person, shall sell, attempt to sell, or distribute free of charge any number of individual or loose cigarettes or other tobacco products.

(2) No person shall sell or offer for sale any tobacco product by means of a self service display, unless said display is located on the main selling counter within ten feet of, and within full view of, the main sales register and which is supervised by store personnel at all times when the store is open to the public.

(3) No person shall sell, attempt to sell, or otherwise distribute cigarettes or other tobacco products in any building or facility owned or operated by the city.

(e) Tobacco Sales Permit

(1) No person, including those establishments which distribute tobacco products by means of vending machines, shall sell or otherwise distribute tobacco products within the city without a valid tobacco sales permit from the **director**\*

**\*Amended October 8, 2002 - 8259**

(2) The prohibition contained in subsection (e)(1) shall take effect on the sixty-first day after the effective date of this ordinance.

(3) The **director**\* shall establish a procedure for the filing of applications for tobacco sales permits. The commissioner shall issue tobacco

sales permits to any person or establishment only after the **director\*** determines that the application demonstrates compliance with this ordinance and any rules or regulations the **director\*** may adopt to implement this ordinance. The first tobacco sales permit issued to any one person or establishment shall be an "initial" tobacco sales permit, which shall expire on the January first next after the date of issuance. Thereafter, any tobacco sales permit issued to the same person or establishment by the director\* shall be an "annual" tobacco sales permit, which shall be valid for one calendar year beginning on January first and ending on December thirty-first. The fee for both initial and annual tobacco sales permits shall be determined by the **director\***.

**\*Amended October 8, 2002 - 8259**

(4) Every person or establishment holding a tobacco sales permit shall display such permit on the premises in a conspicuous place at the point of sale of the tobacco products.

(f) Tobacco Products Vending Machines

(1) No person shall distribute or sell tobacco products through the use of a vending machine without a valid tobacco sales permit issued under subsection (e) of this ordinance. Any person or establishment licensed to sell tobacco products under this ordinance shall locate all vending machines involved in the sale or distribution of tobacco products in such a manner so as to be under the direct observation and supervision of the person to whom the tobacco sales permit was issued, or an adult agent or employee of any such person or establishment. Unless otherwise provided for in subsection (3) of this section, each such vending machine shall be equipped with a switch by which the individual responsible for the observation and supervision of the machine shall, at all times, either remotely or otherwise, control the operation of the vending machine. No purchaser of tobacco products from any vending machine shall be able to obtain tobacco products from such machine without the contemporaneous operation of the switch by licensed person, or the agent or employee described in this subsection.

(2) No tobacco products vending machine shall be located within ten feet from any entrance or exit of any premises wherein the sale or distribution of tobacco products occurs. The provisions of subsection (f)(2) shall not apply to any licensed liquor establishments.

(3) No remote switch or device shall be required on any vending machine located in any licensed liquor establishment where at least seventy-five percent of the proceeds of the establishment result from the sale of alcoholic beverages and where the vending machine is located in a section of the establishment where minors are prohibited.

(g) Penalties & Enforcement

(1) Any person who violates the provisions of subsection (e)(1) of this ordinance shall be punished by a fine of one hundred dollars for each violation. Every day or part thereof in which a person engages in such conduct shall constitute a single and separate offense.

(2) Any person who violates any provision of this ordinance other than subsection (e)(1) shall be punished by a fine of one hundred dollars for the first offense, two hundred dollars for the second offense and three hundred dollars for the third and each subsequent offense. For each violation of any provision of this ordinance, other than subsection (e)(1), occurring on the

premises governed by the tobacco sales permit, the tobacco permit holder shall be penalized with a fine according to the schedule stated in this subsection (g). Any employee of a tobacco sales permit holder who sells or attempts to sell, or distributes free, or attempts to distribute free, any tobacco product to a minor, shall be penalized with a fine in accordance with the schedule stated in this subsection.

(3) Whenever the **director\*** determines that a tobacco sales permit holder has committed three violations of this ordinance within any three hundred and sixty five day period, calculated from the date of the first violation, the **director\*** shall suspend or revoke the tobacco sales permit granted pursuant to this ordinance. The **director\*** shall provide notice to the permit holder of the intent to suspend or revoke a tobacco sales permit, which notice shall contain the reasons therefor and establish a time and date for a hearing before the **director\***, which date shall be no earlier than seven days after the date of said notice. The permit holder shall have an opportunity to be heard at such hearing and shall be notified of the decision of the **director\***, and the reasons therefor, in writing. All tobacco products shall be removed from the premises upon suspension or revocation of the tobacco sales permit. No person or establishment whose license to sell tobacco products has been suspended or revoked shall maintain any such tobacco products on the premises during the period of any suspension or after the revocation of the tobacco sales permit. Failure to remove such tobacco products shall constitute a separate violation of this section, with each day constituting a separate offense. A permit holder whose permit has been revoked may not apply for a new permit prior to the expiration of thirty days following the date of revocation.

**\*Amended October 8, 2002 - 8259**

**S 3A. Smoking in Restaurants - (Ordained June 29, 1999 - 7663)**

(a) Declaration of Findings and Policy. There exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; and the harmful effects of tobacco smoke are not confined to smokers but also cause severe discomfort and illness to nonsmokers; and environmental tobacco smoke (hereinafter E.T.S.), which includes both exhaled smoke and the side stream smoke from burning cigarettes, causes the death of 53,000 Americans each year; and the Environmental Protection Agency (1993) has designated environmental tobacco smoke to be a Class A carcinogen similar to radon and asbestos with no known safe levels of exposure; now, therefore it is the policy of the City Council of the City of Worcester to guarantee the right of non-smokers to breathe smoke-free air and that the need to breathe smoke-free air shall have priority over the desire to smoke and establishes this ordinance to protect and improve the public health and welfare by limiting smoking in restaurants.

(b) Definitions. For purposes of this section,

"bar" shall mean an establishment whose business is the serving of alcoholic beverages for consumption by guests on the premises, without food.

"bar area of a restaurant" shall mean the area of a restaurant where alcoholic beverages are served for consumption by guests on the premises and the service of food is incidental.

"cigar shop/emporium" shall mean an establishment whose business is the serving of cigars for smoking by guests on the premises and in which the serving of food and/or alcohol is only incidental to the smoking of cigars.

"city" shall mean the city of Worcester.

"director" shall mean the director of the department of public health of the city of Worcester.

"food service establishment" shall mean a place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes such places regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes restaurants as defined herein. The term does not include residential kitchens, retail food stores, or supply vehicles.

"food service permit" shall mean the document issued by the director of public health of the city of Worcester which authorizes a person to operate a food service establishment.

"food service permit holder" shall mean a person to whom the director of public health of the city of Worcester issued a food service permit.

"person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the agents or disignees of any of the foregoing.

"pouring licenses" shall mean a license approved by the Massachusetts Alcoholic Beverages Control Commission, as defined in MGL Chapter 140, section 138, that permits the sale of alcoholic beverages for consumption on the premises.

"public place" shall mean any building or facility, any area enclosed and open to the general public including but not limited to, libraries, museums, theaters, auditoriums, in door sports arenas and/or recreational facilities, inns, hotel and motel lobbies, shopping malls, public restrooms, lobbies, staircases, halls, exits, entrances, elevators accessible to the public, and licensed child-care locations.

"retail store" any establishment whose primary purpose is to sell or offer for sale to consumers, but not for resale, any goods or personal services, wares, merchandise, articles or other things, including supermarkets and grocery stores. "Retail store" shall not include restaurants as defined herein.

"restaurant" shall mean any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and other eating establishment which gives or offers food for sale to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

"restaurant/nightclub" shall mean a restaurant with a valid pouring license that suspends it's food service after ten o'clock p.m. and then whose business is the serving of alcoholic beverage for consumption by guests on the premises.

"seating capacity" shall mean the capacity designated on the occupancy permit of a food service establishment.

"single-room restaurants" shall mean a restaurant, which gives or offers food for sale to the public which is physically limited to one room, not subdivided by any floor-to-ceiling physical barriers, and not including restrooms or separate rooms for areas not open to the public such as kitchens.

"smoking" shall mean inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other tobacco product in any form.

(c) Posting Notice of Prohibition

(1) Every person having control of premises upon which smoking is prohibited by and under the authority of this ordinance shall conspicuously display upon the premises "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it).

(d) Smoking Prohibited

(1) No person shall smoke nor shall any person, employer, or other person having control of the premises upon which smoking is prohibited by this ordinance, or the agent or designee of such person, permit a person to smoke in a restaurant and/or retail store or public place as defined herein except as otherwise provided in paragraph (e) of this ordinance.

(2) No person shall smoke in any place in which a sign conforming to the requirements of paragraph (c) of this ordinance is posted. No person shall remove a sign posted under the authority of paragraph (c) of this ordinance.

(e) Exceptions

(1) Notwithstanding the provisions of paragraph (d) of this ordinance, smoking shall be permitted in the following places and/or circumstances:

(a) Hotel and motel conference/meeting rooms while these places are being used for private functions;

(b) Bars;

(c) The Bar Area of a Restaurant provided the restaurant owner holds a valid pouring license and provided further that:

i) the perimeter of a bar area of a restaurant in which smoking is permitted shall be enclosed by a floor-to-ceiling physical barrier excluding entrances;

ii) the bar area of a restaurant in which smoking is permitted shall ventilate air from the bar area of the restaurant to the exterior of the restaurant;

iii) the bar area of the restaurant shall be marked with signs that warn patrons of the dangers of exposure to second hand smoke, and no person under the age of eighteen (18) years of age shall be seated or served.

iv) the bar area of the restaurant shall not exceed:

- aa. thirty-three percent (33%) of the total combined seating capacity of the dining area of the restaurant and the bar area of the restaurant, or
  - bb. thirty-three percent (33%) of the total combined square footage of the dining area of the restaurant and the bar area of the restaurant.
- (d) A single-room restaurant with a valid pouring license, established as such as of the passage of this ordinance, may elect to set aside a portion of the room for smoking if the ventilation system is configured to move air, at a rate of 30 cubic feet per minute, from the non-smoking section of the room, through to the smoking section of the room, then to exit the building, ensuring annually, through a letter submitted to the Worcester Department of Public Health from a certified heating, ventilation and air-conditioning engineer attesting that the ventilation system is adequate to meet the provisions of this regulation and further provide a minimum six (6) foot buffer space between the smoking and non-smoking section.
  - i) the smoking section of the room shall be marked with signs that warn patrons of the dangers of exposure to second hand smoke and
  - ii) the smoking section of the room shall not exceed:
    - aa. thirty-three percent (33%) of the total seating capacity of the dining area of the restaurant or
    - bb. thirty-three percent (33%) of the total combined square footage of the dining area of the restaurant.
- (e) A Restaurant without a valid pouring license, established as such as of the passage of this ordinance, may elect to set a side portion of the restaurant for smoking between the hours of ten o'clock pm and five o'clock am and not admit persons under eighteen (18) years of age and a six (6) foot buffer is provided between the non-smoking and smoking sections and if the ventilation system is configured to move air, at a rate of thirty (30) cubic feet per minute from the non-smoking section of the room through the smoking section of the room, then to exit the building, ensuring annually, through a letter submitted to the Worcester Department of Public Health from a certified heating, ventilation engineer attesting that the ventilation system is adequate to meet the provisions of this regulation.
  - i) the smoking section of the room shall be marked with signs that warn patrons of the dangers of exposure to second hand smoke and
  - ii) the smoking section of the room shall not exceed:
    - aa. thirty-three percent (33%) of the total seating capacity of the dining area of the restaurant.
    - bb. thirty-three percent (33%) of the total combined square footage of the dining area of the restaurant.

- (f) Restaurant/Nightclub that suspends it's food service after ten o'clock p.m. and does not permit persons under twenty-one (21) years of age and then whose business is devoted to the serving of alcoholic beverages for consumption by guests on the premises and the serving of food is incidental.
- (g) Cigar Shops/Emporium, provided such establishments prohibit the entry of all persons under the age of eighteen (18) years old at all times, and that such establishments post signs that warn patrons of the dangers of exposure to secondhand smoke.
- (h) Conflict with Other Laws or Ordinances
- (1) Notwithstanding the provisions of the foregoing paragraph (e) of this ordinance, nothing in this ordinance shall be deemed to amend or repeal applicable fire, health or other ordinances, regulations, rules, or laws so as to permit smoking in areas where it is prohibited by such fire, health or other regulations, rules or laws.
- (i) Violations
  - (1) Any person who violates this ordinance shall be subject to a fine in an amount of one hundred dollars (\$100) for a first offense, two hundred dollars (\$200) for a second offense and three hundred dollars (\$300) for a third or subsequent offense.
  - (2) Whenever the commissioner determines that a food service permit holder has committed three violations of this ordinance within any three hundred and sixty-five day period, calculated from the date of the first violation, the commissioner shall suspend or revoke said food service permit. The commissioner shall provide notice to the food service permit holder of the intent to suspend or revoke said permit, which notice shall contain the reasons therefore and establish a time and date for a hearing before the commissioner, which date shall be no earlier than seven days after the date of said notice. The food service permit holder shall have the opportunity to be heard at such hearing and shall be notified of the decision of the director and the reasons therefore, in writing. The food service establishment shall be closed during said suspension or revocation. Failure to close the food service establishment during the period of said suspension or revocation of the food service permit shall constitute a separate violation of this section, each day constituting a separate offense.
- (j) Enforcement
  - (1) As an alternative to initiating criminal proceedings, violations of this ordinance may be enforced in the manner provided in M.G.L. c. 40, Sect. 21D, by director of public health of the city of Worcester or its agents. Any fines imposed under the provisions of this ordinance shall be returned to the city of Worcester for such use as the city may direct.
  - (2) Any citizen who desires to register a complaint under this ordinance may request that the director of public health initiate enforcement.

(k) Effective Date

(1) This ordinance shall become effective on July 1, 2000.

**§ 4. Use of Gasoline Motors on Patch Reservoir**

(a) No person shall operate or allow to be operated a gasoline motored or diesel powered boat or other type of gasoline powered vehicle upon Patch Reservoir.

(b) Any person who violates the provisions of this section shall be punished by a fine of three hundred dollars for each violation.

(c) The provisions of this section shall not apply to any emergency vehicles.

**§ 5. Temporary Fencing**

(a) Pursuant to the authority granted under § 3006.0 of the State Building Code, (780 CMR et seq.) the **director of code enforcement\*** shall require the placement of temporary metal fencing around the perimeter of the following each excavations and resultant earth mounds:

- (1) excavations for underground storage tanks, including but not limited to, construction holes for gasoline tanks, oil tanks, and septic tanks; and
- (2) excavations for the erection of a structure or building; and
- (3) excavations or construction holes resulting from the demolition or removal of a structure of building.

(b) The provisions of this ordinance shall not apply to residential construction excavation where the foundation area, as determined by **the director of code enforcement\*** from the application for a building permit, does not exceed 1,800 square feet and where the excavation is filled within 21 days from the date excavation activities began; provided that the **director of code enforcement\*** shall require temporary perimeter fencing on a non-metal nature around such excavations and resulting earth mounds.

**\*Amended October 8, 2002 - 8259**

(c) Any person who fails to comply with requirements of the director of code enforcement issued under sub-section (a) herein shall be punished by a fine of one-hundred dollars with each day of such failure constituting a separate offense.

**§ 6. Illegal Dumping**

(a) No person, on any public or private property in the city of Worcester, shall deposit, drop or throw upon such public or private property and suffer to remain there, any filth, rubbish or refuse unless it is deposited and dropped or thrown into a receptacle provided for the purpose or unless such activity is pursuant to a lawful permit or license issued by the city or the Commonwealth of Massachusetts.

(b) This section may be enforced by civil process, criminal process or by noncriminal disposition as provided in General Laws, chapter 40, S21D. The

penalty for each violation of this ordinance enforced by the noncriminal disposition process shall be two hundred (\$200.00) dollars. The penalty for each violation of this ordinance enforced by civil or criminal process shall be determined by the court and shall not be more than two thousand (\$2,000.00) dollars for each offense. \*

\*Amended September 30, 2003 - 8391

#### § 7. Verification of Construction Debris Disposal

(a) In furtherance of the requirements set forth in G.L. c. c. 40, § 54, and § 114.1.3 of the State Building Code, the **director of code enforcement** \* shall require any person who obtains a permit for the demolition, renovation, rehabilitation, or alteration of a building or structure to provide verification that the debris resulting from such activities was disposed of at the licensed solid waste disposal facility named in conjunction with the permit application.

\*Amended October 8, 2002 - 8259

(b) The verification required under sub-section (a), above, shall consist of the following:

- (1) a dated receipt, signed by the owner/operator of the licensed solid waste disposal facility where the debris was deposited.
- (2) the receipt shall contain a description of the debris disposed of, and its weight, or volume.
- (3) the permit holder shall also provide **the director of code enforcement** \* with an affidavit that the receipt submitted is true and accurate to the best of the permit holder's knowledge.

\*Amended October 8, 2002 - 8259

(4) if the permit holder cannot dispose of the debris at the location indicated, it shall be the permit holder's obligation to obtain an amendment to the permit reflecting the new disposal location. **The director of code enforcement**\* shall be so notified, and the permit amended, prior to the disposal of the debris at the new disposal location.

\*Amended October 8, 2002 - 8259

(c) this section shall not apply to the construction of a new building or structure.

#### § 8. Commercial Metal Containers

(a) For purposes of this section,

"commercial metal containers" - shall mean any large metal container for refuse which by mechanical means is capable of being emptied into or being loaded onto a truck which is designed to perform this operation and to accommodate the contents of the container; and,

"contractor" - shall mean any individual or individuals, corporation, or other entity however formed, who provides or empties commercial metal containers for any owner.

"owner" - shall mean every person who alone or severally with others has:

- (i) legal title or interest in any dwelling, dwelling unit, building or parcel of land, vacant or otherwise; or
- (ii) care, charge or control of any dwelling, dwelling unit, building or parcel of land vacant or otherwise.

(b) Use of commercial metal containers shall be permitted for the storage of refuse provided the owner of the property where the container is located and the contractor supplying the container complies with all rules and regulations of the **department of public health and the department of code enforcement\***, and all other municipal, state, and federal laws, ordinances, rules and regulations relating to such use or location. In no event shall the owner allow, nor shall any contractor empty, any commercial metal container between the hours of 10:00 P.M. and 7:00 A.M. This prohibition shall not apply to those containers servicing primary or secondary schools.

**\*Amended October 8, 2002 - 8259**

(c) Any contractor supplying commercial metal containers in the city is required to provide the department with the name and address of the person ordering the container, the location of the container and the description of the type of container. All commercial metal containers so supplied shall be in conformity with **regulations adopted by the department of public health or the department of code enforcement\*** including but not limited to, regulations regarding identification of the container and condition of the container. After one written warning, any contractor violating this provision shall be subject to a \$200.00 fine. Each day of violation shall constitute a separate offense.

**\*Amended October 8, 2002 - 8259**

(d) Every owner having a commercial metal container on its premises shall comply with all **department of public health or the department of code enforcement\*** and fire department regulations relative to commercial metal containers; including but not limited to, regulations pertaining to sanitary maintenance of the area around the containers, keeping container doors and covers closed, causing the containers to be emptied at such intervals as will prevent overflowing and placement of the container in an appropriate location on the lot. No container shall be placed at any location such that it becomes an obstacle to the egress of persons from buildings or to vehicular traffic or as to obstruct the operations of the fire department personnel during a fire or other emergency.

**\*Amended October 8, 2002 - 8259**

(e) No owner, lessee or refuse generator shall maintain on any premises a commercial metal container which is emptied by mechanical assistance, of six cubic yards or more in the aggregate of compacted or uncompactable combustible rubbish without first obtaining a permit from the chief of the fire department. Each permit shall expire one year from the date of issuance. No permit, however, shall be required from containers which are delivered to a location and removed in the course of a single business day.

## § 9. Certificate of Fitness

(a) As used in this section the following terms are defined:

"State Sanitary Code" - shall refer to chapters I and II of the State Sanitary Code, 105 C.M.R. §400.00 et. seq., as may be amended from time to time, adopted by the Massachusetts department of public Health pursuant to G.L. c.111. The terms used in this section shall have the meanings ascribed to them in chapters I and II of the state sanitary code.

"Certificate of fitness" or "certificate" - shall mean a certification issued following an inspection by inspectors of the **department of public health or department of code enforcement (hereinafter "departments")**\* attesting to the conformance of the dwelling unit with minimum standards of fitness for human habitation as prescribed under the state sanitary code.

\*Amended October 8, 2002 - 8259

(b) **Any owner of a dwelling unit or authorized agent of the owner may request the director of public health to issue a certificate, which certificate shall be issued if said director determines, upon receipt of inspection reports from the departments, that the dwelling unit meets the minimum standards set forth in the state sanitary code.\*** Prior to requesting a certificate under this section, the owner or authorized agent must present proof that the dwelling unit complies with the deleading requirements of G.L. c.111, ss. 190-199a and the State Sanitary Code, chapter 1, § 400.200(b).

\*Amended October 8, 2002 - 8259

(c) No certificate shall be issued if the inspection by **the director of public health \*** reveals that any violation of the state sanitary code exists in the dwelling unit.

\*Amended October 8, 2002 - 8259

(d) If, after any inspection pursuant to this section, **the director of public health\*** refuses to issue a certificate, **the director of public health shall cause to be issued\*** an order setting forth the violations of the state sanitary code existing in the dwelling unit which must be corrected before a certificate may be issued. It shall be the responsibility of any owner receiving such order to remedy such violation and to notify the department **issuing any such order\*** when such violation has been remedied and request a reinspection. Any corrective orders shall be in conformance with the requirements of the state sanitary code and shall be enforced according to the provisions of the state sanitary code.

\*Amended October 8, 2002 - 8259

(e) It shall be the duty and responsibility of any owner, agent or lessor acting on behalf of the owner of any dwelling unit to notify the **director of public health\***, on forms provided by the director of public health\*, that any violation noted during an inspection by the **director of public health\*** has been corrected. If within ten full working days after receipt of such notice, the **director of public health\*** fails to reinspect such unit, it shall issue a notice of permission to rent, permitting such unit to be occupied.

**\*Amended October 8, 2002 - 8259**

(f) For any dwelling unit which has been inspected and found in compliance with the requirements of this section, a certificate shall be issued subject to the following conditions:

(1) For occupied dwelling units, the tenants name shall be recorded with the certificate at the time of issuance. The certificate shall be valid for twenty-four months or until the tenant discontinues occupancy of the dwelling unit, which ever occurs first.

(2) For vacant dwelling units the owner or authorized agent shall be issued a letter stating the certificate will be issued at the time of occupancy within six months of the inspection. The certificate will be issued subject to conditions in (a) above. Units not occupied within six months will require a reinspection prior to the issuance of the certificate. Upon reinspection dwelling units found in compliance with the requirements of this section will be issued a certificate subject to the conditions of (a) above. Dwelling units found not to be in compliance, will be subject to a reinspection fee and all other requirements of this section.

(3) All certificates are issued subject to continued compliance with conditions listed in this section. The department may revoke the certificate if upon an inspection a violation of any of the requirements specified herein are not met. Reinstatement of the certificate will require a reinspection and payment of a reinspection fee.

(g) Application for such certificate under this section shall be by the owner or authorized agent of the owner and shall be accompanied by a fee established by the **director of public health\*** pursuant to §24 of chapter two of these Revised Ordinances. Such fee shall be for initial inspection and will include one reinspection if required. If after one reinspection the **director\*** refuses to issue a certificate because of any violation of the state sanitary code and the owner or authorized agent of the owner has notified the **director\*** that any violation has been remedied, any reinspection, shall be made following payment of an additional fee for each subsequent reinspection. No request for inspection or reinspection shall be deemed to have been received by the **director\*** until the required fee has been paid in full.

**\*Amended October 8, 2002 - 8259**

(h) A certificate shall not be issued unless tax bills for the property have been paid, or the owner has complied with the requirements of these Revised Ordinances regarding amounts overdue to the city.

(i) Units let for rent in a licensed lodging house are exempt from the provisions of this section.

**S 9A Storage of Unregistered Motor Vehicles - (Ordained February 4, 1997 - 7186)**

(a) The storage, parking, abandonment or keeping of more than one unregistered motor vehicle, or of motor vehicle parts, on private real property, and not within a garage or other closed structure, is prohibited and hereby declared a public nuisance.

(b) No person owning, leasing, occupying or otherwise in control of any private real property shall cause, maintain, or allow the maintenance or existence thereon of any activity prohibited under subsection (a).

(c) The provisions of subsection (a) shall not apply to any activities conducted by a person holding a valid license under General Laws, chapter 140 and/or chapter eleven of these Revised Ordinances, or as may be allowed under the Worcester Zoning Ordinance.

(d) The provisions of subsection (a) shall not apply to the storage, parking or keeping of unregistered antique motor cars (as such term is defined by the General Laws, chapter 90, S1, as amended). Provided, however, that any unregistered antique motor car not stored within a garage or other closed structure,

(i) shall not be within the ordinary view of abutters or those travelling upon the ways abutting the property, or

(ii) shall be covered with a standard vehicle cover of a type manufactured and sold for that purpose.

(e) The storage, parking, or keeping of one unregistered vehicle, other than within a garage or other closed structure, shall be allowed on any property provided that,

(i) the vehicle is not within the ordinary view of abutters or those travelling upon the ways abutting the property, or

(ii) shall be covered with a standard vehicle cover of a type manufactured and sold for that purpose.

(f) Upon inspection and a determination that a violation of subsections (a), (d) or (e) exists, a written notice shall be sent certified mail to the owner of the property, and when known, to any other person leasing, occupying or otherwise in control of the property, notifying such person(s) of the violation, that a public nuisance exists and ordering its removal within a time specified in the notice.

(g) At the expiration of the time specified in the notice under subsection (f), if the nuisance has not been fully abated the property owner, lessee, occupant or person in control thereof shall be in violation of this ordinance and subject to prosecution therefore. Each successive day that a violation continues shall constitute a separate offense.

**§ 9B Regulation of Feeding or Baiting of Waterfowl -**

**(Ordained April 25, 2006 - 8804)**

(a) No person, except as otherwise provided by the Massachusetts General Laws, shall feed or bait any waterfowl of the family Anatidae (including, but not restricted to ducks, geese, and swans) at any place within the city of Worcester. As used in this ordinance, "feeding" and "baiting" shall mean the placing, exposing, depositing, distributing, or scattering, directly or indirectly, of any shelled, shucked, or unshucked corn, wheat, or other grain, bread, or salt, or any other feed or nutritive substances, in any manner or form, so as to constitute for such birds a lure, attraction, or enticement to, on, or over any areas where such feed items have been placed, exposed, deposited, distributed, or scattered.

(b) Nothing in this ordinance shall be construed to limit the feeding of domesticated waterfowl, as defined by the Division of Fisheries and Wildlife of the Massachusetts Department of Fish and Game, by a farmer, as said term is defined in Section 1A of Chapter 128, on property owned or leased by a farmer, or the feeding of waterfowl or other birds by propagators licensed under Section 23 of Chapter 131 of the General Laws when such waterfowl or other birds are confined in such a manner as may be required pursuant to said Section 23 and any rules and regulations issued under any authority thereof; or the feeding by any person or his agents, invitees or licensees of waterfowl lawfully kept as a pet by such person.

(c) Any person who violates any provision of this ordinance shall be subject to a fine of one hundred dollars (\$100.00) for each offense thereof.

**§ 9C Parking and Storage of Recreational and Commercial Vehicles - (Ordained January 22, 2008 - 9113)**

(a) No person shall allow, permit, or suffer a recreational vehicle, which is a vehicle or piece of equipment intended for recreational use, including but not limited to boats, boat trailers, camping or travel trailers, motor homes, and other mobile vehicular structures designed for recreational use having motor power or mounted onto and drawn by another vehicle, or a commercial vehicle, bus, or trailer having a gross weight of 11,000 pounds or more to be parked within the setback requirements, as set forth in Table 4.2 of the Zoning Ordinance, for the district where the property is located.

(b) Upon determination that a violation of this subsection exists, a written notice shall be sent certified mail to the person notifying such person of the violation and ordering the removal of the recreational or commercial vehicle within seven (7) days after service of notice of the violation. The director of code enforcement may seek an injunction from a court of competent jurisdiction to restrain any violation of this Ordinance.

(c) This Ordinance may also be enforced by civil process, criminal process, or by non-criminal disposition as provided in General Laws, Chapter 40D, §21D. Each day on which a violation exists shall be deemed to be a separate offense and any person in violation of this Ordinance shall be subject to a fine of twenty-five dollars for each offense.

**§ 10. Licenses - (Amended June 24, 1997 - 7276)**

(a) Every owner or keeper of a dog six months old or over, shall, annually during the month of March, or within 30 days after a dog becomes six months old, obtain a license from the city clerk. Each license shall be numbered and contain the color, breed, gender and special markings of the dog; the name, residential address and phone number of the owner; a description of the symptoms of rabies printed thereon; and such other information as the city clerk deems appropriate. The city clerk shall not issue any license to any person under the age of eighteen, nor issue more than two licenses for any single dwelling unit. Each license shall be issued upon the condition that the owner or keeper shall comply with the provisions of this ordinance and any law, rule or regulation relating to the ownership and control of dogs.

(b) The city clerk shall not issue any license unless the owner or keeper provides either a veterinarian's certification that such dog has been vaccinated in accordance with S13, herein, or has been certified exempt from such provision as hereinafter provided, or a notarized letter from a veterinarian that a certification was issued or a metal rabies tag bearing an expiration date indicating that such certification is still in effect.

(c) The city clerk may grant an exemption from the requirements of S13 for any dog which has not yet obtained the age of six months, any dog which the commissioner of public health or his or her designee, for a specified period of time, declares exempt upon presentation of a veterinarian's certificate stating that because of an infirmity, other physical condition or regiment of therapy, that inoculation is thereby deemed inadvisable, or any dog in transit, or any dog brought into the city temporarily for the sole purpose of showing in dog shows or exhibitions.

(d) The city clerk shall furnish with every license issued hereunder, tags containing the words "city of Worcester" and the license number and the year issued. The owner or keeper of every dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material, to which such tag shall be securely fastened.

(e) The fee for every license, except as otherwise provided, shall be as follows:

(i) females	\$10.00
(ii) males	\$10.00
(iii) spayed females	\$ 8.00
(iv) neutered male	\$ 8.00

**Any person who fails to obtain an annual dog license on or before May 31<sup>st</sup> shall be charged when applying for a license, in addition to the license fee, a late fee of fifteen (\$15.00) dollars. \***

**\*Amended February 25, 2003 - 8325**

(f) Any person requesting a license for a spayed female or neutered male shall present a certificate, from the registered veterinarian who performed the operation, that the dog has been spayed or neutered, as the case may be, and has thereby been deprived of the power of propagation.

(g) If the city clerk is satisfied that the certificate of the veterinarian who spayed the dog cannot be obtained, he may accept in lieu thereof a statement signed under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth, describing the dog and stating that he has examined such dog and that it appears to have been, and in his opinion has been spayed and thereby deprived of the power of propagation or a receipt of a bill from the veterinarian who performed the operation that spayed such female dog.

(h) No fee shall be charged for a license for a dog specially trained to lead or serve a blind person; provided, that the Massachusetts Commission for the Blind certifies that such dog is so trained and is actually in the service of a blind person. No fee shall be charged for a license for a dog professionally trained in the hearing dog business to serve a deaf or audibly impaired person; provided, that the director of the Office of Deafness certifies that such dog is so trained and is actually in the service of a deaf or audibly impaired person. For purposes of this section an "audibly impaired person" shall be any individual unable to hear air conduction thresholds at an average of forty decibels. Any license issued to a blind, deaf or audibly impaired person shall bear a special designation indicating that such dog is a "registered service dog".

(i) All fees collected pursuant to this chapter shall be deposited with the city treasurer who shall credit them to the general fund of the city. No license fee or part thereof shall be refunded because of the revocation or surrender of the license, or the subsequent death, loss, spaying, or removal from the city, or other disposal, of the dog.

**S 11. Kennel License - (Amended June 24, 1997 - 7276)**

(a) No person, without a valid kennel license from the city clerk, shall: (i) own or keep more than two dogs or cats six months old or older in a single dwelling unit; or, (ii) maintain any number of dogs or cats for boarding, training, breeding or for sale, including a shop where dogs are on sale. Each kennel license shall be valid for one year beginning on April first and ending on March thirty-first. Each license shall contain the name, address and phone number of the owner or keeper, the number of dogs or cats maintained and such other information as the city clerk deems appropriate. Each license shall be issued upon the condition that the owner or keeper shall comply with the provisions of this ordinance and any law, rule or regulation relating to the ownership and control of dogs or cats.

(b) The kennel license shall be issued in lieu of the license required by S 10 above for any dog while kept at such kennel during any portion of the period for which the kennel license is valid. The holder of a kennel license shall cause the dog kept therein to wear, while it is at large, a collar or harness of leather or other suitable material, to which shall be securely attached a tag showing the number of the kennel license, the year of the issuance and the words "city of Worcester." Such tags shall be furnished by the city clerk in quantities not less than the number of dogs licensed to be kept in such kennel.

(c) Any domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse and for the relief of suffering among animals shall be entitled to a kennel license without charge, providing all other applicable provisions are satisfied.

(d) Every holder of a kennel license shall maintain their kennel in a sanitary and humane manner and shall keep a record of all dogs or cats, including their license numbers, kept in the kennel.

(e) Every holder of a kennel license shall, upon delivering an unlicensed dog to a purchaser or to any other person, attach to such dog a collar or harness which shall carry a tag marked with the name and address of the kennel licensee, and a number which shall be properly recorded on the records of the licensee. The kennel licensee shall also furnish to every person to whom a dog is delivered a certificate bearing the number on the dog's tag and a description of the dog. Such certificate shall bear the date of the purchase or delivery and, with the tag, shall for fourteen days, following such date, be a legal substitute for a license. The purchaser or recipient of a dog from a kennel licensee shall, within two weeks of the purchase or receipt, obtain a license in accordance with section one of this chapter and return the temporary tag to the kennel licensee with a certificate signed by the city clerk certifying that the dog has been licensed. If any purchaser or recipient fails to comply with the above requirements, the kennel licensee shall within seven days notify the city clerk of the name and address of the purchaser or recipient, and the date of delivery.

(f) The city clerk, the **director of public health,\*** or their designee, or any police officer or dog officer, may at any time inspect or cause to be inspected any kennel licensed under this section and if, in their or his

judgment, the kennel is not being maintained in a sanitary or humane manner, or if records are not properly kept as required by this ordinance or other applicable law, or is in violation of any provision of this ordinance, the city clerk shall by order revoke or suspend, and in the case of suspension may reinstate, such license.

**\*Amended October 8, 2002 - 8259**

(g) No kennel license shall be issued unless the applicant presents evidence to the city clerk showing that the applicant has reached the age of eighteen and has complied with the zoning ordinances of the city of Worcester with respect to kennels. In no case shall a kennel license be issued to any person whereby a kennel would be maintained in any multi-family dwelling or on the premises thereof.

**S 12. Dangerous Dogs & Nuisance Animals - (Amended June 24, 1997 - 7276)**

(a) No person shall own, harbor or keep any dangerous dog anywhere within the city for any length of time. For purposes of this section a "dangerous dog" shall be any dog which:

1. has, without provocation, bites or inflicts serious injury on any person or any domestic animal; or
2. is owned, harbored or trained primarily or in part for the purpose of dog fighting; or
3. is owned or harbored on property known for drug trafficking or gang activities; or
4. has been impounded by an animal control officer for a violation of section 14 (a) (2) of this chapter, or has been otherwise observed in violation of section 14 (a) (2) of this chapter, on at least three separate occasions within any twelve-month period.

(b) The city clerk shall deny a license to anyone attempting to license a dangerous dog as defined by this section and shall revoke the license of any dog that has subsequently been designated as dangerous.

(c) The chief of police shall order any dangerous dog as defined by this section to be removed from the city and may exercise any of the enforcement powers granted under G.L. chapter 140, S 151, or any other regulation, statute, ordinance or upon order of a court.

(d) No person shall own or keep a "nuisance animal" which shall be any animal which molests, harasses, annoys, injures, attempts to injure, assaults, bites, or otherwise injures any person or other animal; or which damages or destroys any private or public property; or which trespasses on the grounds of any public school in the city; or which barks, whines or howls and disturbs the peace and tranquillity of an area; or which interferes with a police officer, fire fighter, emergency medical care provider, or city inspector while performing their duties.

(e) No person shall subject any animal to abuse, inhumane care, or unsafe or unsanitary conditions.

**S 13. Vaccination Required - (Amended June 24, 1997 - 7276)**

(a) Whoever is the owner or keeper of a dog six months of age or older shall cause such dog to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the department of public health. Such owner or keeper shall procure a veterinarian's certification that such dog has been so vaccinated and setting forth the date of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certificate was issued, or a metal rabies tag bearing an expiration date indicating that such certification is still in effect.

(b) Unvaccinated dogs acquired or brought into the city shall be vaccinated within thirty days after acquisition or entry into the city or upon reaching the age of six months, whichever comes later.

(c) Vaccinated dogs shall be revaccinated in accordance with rules and regulations adopted and promulgated by the department of public health.

**S 14. Duties of Dog Owners - (Amended June 24, 1997 - 7276)**

(a) It shall be unlawful for any person to:

1. keep or harbor any dog without the license required by sections ten or eleven of this chapter; or violate any requirement imposed as a condition to the issuance of a license under sections ten or eleven of this chapter; or
2. permit any dog he or she owns or keeps to run or roam at large off the premises of the owner or keeper without either being secured by a leash which does not exceed six feet in length or secured in an enclosed animal transportation cage; or
3. fail to cause any dog to be vaccinated as required by section thirteen of this chapter; or
4. maintain a kennel in violation of the Zoning Ordinance of the city of Worcester, or in any multi-family dwelling or on the premises thereof; or
5. use any license for a dog other than for the dog for which it was issued; or
6. withhold or falsify any information on an application for a dog or kennel license; or
7. allow any dog, except a registered service dog, to be in any city park, public cemetery or playground; or
8. allow any dog, except a registered service dog, to be in or on any place open to the public within that area of the city surrounded by and including both sides of Irving, Linden and Harvard Streets to the west, Madison Street to the south, Route I-290 to the east and Concord Street to the north, unless the dog is licensed at an address within said area; **except that nothing herein shall prohibit any dog from participating in, being transported to or from, or being exercised or board in connection with, any dog show, act or event for which an entertainment license has been issued by the city under G.L. c. 140, or for which a permit has been issued pursuant to the Department of Public Health and Code Enforcement's regulations for the keeping or exhibition of animals, which is conducted by any corporation organized primarily for the promotion of dogs, so long**

as any such dog is secured in a cage or by a leash which does not exceed six feet in length while on any street open to the public, and so long as, at no time shall any such dog be taken into the Worcester Common or any city park, playground or schoolyard;\* or

**\*Amended September 16, 1997 - 7302**

9. permit any dog he or she owns or keeps to deposit any excreta on any property, whether public or privately owned, which is open to the public, without immediately removing such excreta for disposition in a sanitary manner; or

10. permit dog excreta to accumulate on his/her property;

11. cause or permit any dog, whether leashed or unleashed, to hang from or otherwise damage any tree, whether public or private.

(b) The owner or keeper of a domestic animal shall properly dispose of the animal within seventy-two hours of its death.

**S 15. Enforcement - (Amended June 24, 1997 - 7276)**

(a) The city manager, acting through the chief of police, police officers, animal control officers, or any officer or employee of the city under the jurisdiction of the city manager, shall have authority to enforce the provisions of this chapter and shall have all the powers and duties afforded by chapter 140 of the General Laws as it relates to the regulations of dogs and dog owners. Enforcement of this ordinance may, in the discretion of the city manager or the enforcement agents described above, be initiated as a criminal matter or an in rem proceeding under the provisions of this section, or a non-criminal matter under the provisions of section seventeen of this chapter, or any combination of the above.

(b) Any person may make a complaint to the chief of police pursuant to S 157 of chapter 140 of the General Laws. The chief of police shall investigate the matter in accordance with the terms of said section and may make any order concerning the restraint or disposal of such dog as provided for therein.

(c) Each violation of any of the provisions of this chapter shall be punished by a fine of fifty dollars for each offense with each day of violation constituting a separate offense. Any person who is punished under this section, or penalized under the provisions of section seventeen of this chapter, for three or more violations in any two year period shall immediately forfeit any license issued under sections ten through seventeen of this chapter and shall be ineligible to hold any dog or kennel license for one year from the date of the third conviction or imposition of a civil penalty.

(d) In addition to any fine or monetary penalty imposed by sections ten through seventeen of this chapter, any dog found running at-large within the city, or any animal found to be a dangerous dog or a nuisance animal, shall be deemed forfeit and may be seized and impounded by the city. The owner of any such animal shall be liable to the city for all fees and expenses paid for the protection, care, rehabilitation or euthanasia of any such animal. The owner of any animal deemed forfeit and seized by the city shall have the right to request a hearing before the chief of police to determine whether the animal qualifies as a dangerous dog or nuisance animal under this chapter, if a request for a hearing is made in writing to the chief of police within seventy-

two hours after such seizure occurs. Any such hearing shall be informal and may be conducted by the chief of police, or his or her designee.

(e) Every license issued under this chapter shall become void whenever the licensee is found guilty of, or penalized in any manner for, sections seventy-seven, eighty A, ninety-four or ninety-five of chapter two hundred and seventy-two of the General Laws. The licensee shall immediately return and surrender any such license to the city clerk. No person shall be given a license under the provisions of this chapter during a period two years from the date of being found guilty or penalized in any manner as aforesaid, and any such license issued shall be void and shall be surrendered upon demand of the city clerk, or his designee.

**S 16. Additional Rules and Regulations Under G.L. c. 140 -**

**(Amended June 24, 1997 - 7276)**

(a) The city clerk, chief of police and **director of public health\*** shall have the authority to make regulations appropriate for the implementation and enforcement of this chapter.

**\*Amended October 8, 2002 - 8259**

(b) Nothing in this chapter or any rule or regulation adopted hereunder shall contradict the provisions of chapter 140 of the General Laws relating to the turning over or sale of animals to any business or institution licensed or registered as a research facility or animal dealer in S 151, the minimum confinement period of dogs in S 151A, or the methods of execution in S 151A.

(c) Any provision of sections 136A through 174D of chapter 140 of the General Laws, as may be amended from time to time, not inconsistent with this chapter shall continue to have the force of law within the city.

**S 17. Non-Criminal Disposition - (Amended June 24, 1997 - 7276)**

(a) The violation of any provision of sections ten through seventeen of this chapter may be enforced through the non-criminal procedures described in S 173A of chapter 140 of the General Laws, (as the same may be amended from time to time), except that, by this ordinance, the schedule of fines provided for in S 173A shall be superseded by the provisions of this section.

(b) The non-criminal penalty for violation of any provision of this ordinance shall be fifty dollars for each offense with each day of violation constituting a separate offense.

**BIOMEDICAL RESEARCH**

**§ 18. Definitions**

For purposes of §§ 28 - 35 of this chapter the following definitions shall apply:

"DNA" - means deoxyribonucleic acid

"recombinant DNA" ("RDNA") or "recombinant DNA molecules"  
- means either (1) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate

in a living cell, or (2) DNA molecules which result from the replication of a molecule described in (1) above.

"NIH guidelines" - means the following:

1. Guidelines for Research Involving Recombinant DNA Molecules promulgated by the National Institutes of Health (NIH) of the United States Department of Health and Human Services and published in 46 F.R. 34463-34487 on July 1, 1981, as may be amended by the NIH; and

2. Recombinant DNA Research; Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules (NIH Large Scale Recommendations) promulgated by the National Institutes of Health of the United States Department of Health and Human Services and published in 45 F.R.24968-24971 on April 11, 1980, as may be amended by the NIH.

"institution" - means any single individual, group of individuals, partnership, association, organization, corporation, educational institution or medical facility.

#### **§ 19. Scope**

This chapter shall apply to all institutions in the city which experiment with or use RDNA technology.

#### **§ 20. Restrictions**

RDNA use classified by NIH guidelines as requiring P4 level of containment shall be prohibited in the city.

#### **§ 21. Regulations**

All use of RDNA by institutions in the city shall be undertaken only in conformity with current and applicable NIH guidelines, as promulgated in the federal register and as may be amended from time to time by the NIH or by any successor agency.

#### **§ 22. Administrative Requirements**

Each institution in the city which experiments with or uses RDNA technology shall comply with the administrative practices set forth in the NIH guidelines, including but not limited to the following:

(a) The establishment of an Institutional Biosafety Committee (IBC) which shall contain at least five members, of whom at least two (but not less than 20%) shall not be affiliated with the institution and shall represent the interests of the community with respect to health and the protection of the environment.

(1) The IBC shall contain at least one representative from the institution's bio-technician staff.

(2) The non-affiliated representatives on the IBC shall be appointed by the institution with notice to the commissioner of public health.

(3) The non-affiliated representatives on the IBC shall be persons active in medical, occupational health or environmental concerns in the community.

(4) The non-affiliated representatives on the IBC shall be bound by the same rules prohibiting use and disclosure of proprietary information and trade secrets as the other members of the IBC.

(5) The IBC shall establish a set of rules and administrative procedures governing its operations in accordance with the NIH guidelines.

(b) The provision of safety plans and manuals which shall be subject to the approval of the IBC.

(c) The provision of proper training and appropriate safeguards and procedures for minimizing potential environmental and personal exposure.

(d) If the institution is engaged in RDNA research at the P3 containment level, the appointment of a Biological Safety Officer who shall be a member of the IBC.

(e) If the institution is engaged in RDNA use on a 'large scale' (as defined in the NIH large scale recommendations), compliance with all additional administrative requirements contained in the NIH large scale recommendations.

### **§ 23. Permits and Inspections**

(a) No institution may employ RDNA technology in the city without a permit issued by the **director of public health (hereafter "director")\***.

**\*Amended October 8, 2002 - 8259**

(b) Such permit shall be issued upon certification by the IBC to the commissioner that the institution is in compliance with the provisions of this chapter and the NIH guidelines. No other permit or certification shall be required, provided, however, that IBC shall each six months renew the certification that the institution is in compliance with this chapter and the NIH guidelines.

(c) Any institution aggrieved by a final decision to deny or to grant a permit may seek relief in any court of competent jurisdiction, as provided by the laws of the commonwealth.

(d) The **director\*** shall inspect at least annually each institution holding such a permit to ensure compliance with the provisions of this chapter and the NIH guidelines.

**\*Amended October 8, 2002 - 8259**

(e) The **director\*** may require from an institution such information and data as is necessary to ensure compliance with this chapter.

**\*Amended October 8, 2002 - 8259**

### **§ 24. Environmental Surveillance**

(a) All institutions employing RDNA technology within the city shall provide appropriate medical and environmental surveillance programs in accordance with the NIH guidelines.

(b) The environmental surveillance program shall include a plan for the systematic monitoring of waste to ensure that recombinant organisms will not be released into the environment.

(c) The environmental surveillance program shall include a plan to train representatives of the **department of public health, department of code enforcement\***, the Fire Department, and the Police Department in the procedures to be used in the event of an emergency.

**\*Amended October 8, 2002 - 8259**

(d) Any releases into the environment of recombinant organisms posing a threat to public health shall be immediately reported to the **director\***.

**\*Amended October 8, 2002 - 8259**

## **§ 25. Penalties**

Any person or institution who violates any provisions of this chapter shall be punished by a fine of up to \$300.00 for each separate violation.

## **WEIGHTS AND MEASURES**

### **§ 26. Establishment of Public Scales**

The city council shall, from time to time, as the public good may require, establish a sufficient number of public scales, furnished with decimal weights, for the weighing of hay and other articles.

### **§ 27. Duties of Weighers**

It shall be the duty of every weigher to attend to the scales that may be assigned to him, to deliver to the driver or owner of every load of hay, straw or other article weighed, a certificate specifying the name of the driver or owner, his place of residence, the article or merchandise weighed, weight and fare, the fees charged and received, and the date and number of the certificate. He shall keep a record, in a book to be furnished by the city, of all hay and other articles weighed by him and shall deliver the book to the city clerk at the expiration of his term of office. The record shall contain all the particulars that are required to be stated in the certificate aforesaid.

### **§ 28. Measurers of Wood, Bark or Charcoal**

Every measurer of wood, bark or charcoal in the city shall keep a record of all the tickets issued by him, with the date thereof, the names and places of residence of the respective drivers and the quantity of each load, which record shall at all times be subject to the inspection of the city manager and

city council, and at the expiration of his term of office it shall be delivered to the city clerk.

**§ 29. Weighers to Receive Fees**

No weigher of coal, hay or other articles of merchandise, other than those appointed to attend the public scales established by the city council, shall weigh for hire or receive fees by weighing any coal, hay or other articles of merchandise, except such as are bought or sold in the regular course of the business transacted by the proprietors of the yards or places respectively where private scales may be established.

**§ 30. Fees of Public Weighers**

The fees of public weighers for all commodities for each and every weighing is established at \$4.00.

**§ 31. Weighers and Measurers Certificates**

(a) No weigher of hay or straw, or measurer of wood, bark or charcoal shall give or permit to be given a ticket of any measurement or weight not made by himself in person.

(b) All certificates or tickets that may be issued by any weigher or hay or straw, or any measurer of wood, bark or charcoal shall express the quantity of weight thereof measured or weighed in words at length, and not in figures only, and the same shall be written or printed with ink and not in pencil marks.

**§ 32. Reports**

The weighers of hay or straw shall make reports to the city auditor before the 10th day of every month of all fees received by them by virtue of their office, during the month preceding.

**§ 33. Fees of Schedules**

For sealing the weighing or measuring devices the sealers shall receive fees in the amounts established by the commissioner under authority of §24 of chapter two of these Revised Ordinances.

**NOISE CONTROL - (Ordained May 23, 2000 - 7775)**

**§ 34. Regulation of Construction Noise**

(a) It shall be unlawful for any person, firm, corporation, partnership, or other entity to operate powered construction equipment or to build, erect, construct, demolish, alter, repair, excavate or engage in hoisting, grading, site work, including tree and brush removal, dredging or pneumatic hammering, or to deliver construction equipment and/or supplies to the site on any building, road, tower, parking lot, machine, pipe, sewer, sidewalk, or any other construction project (hereafter collectively the "construction project"), except between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and Saturday,\* except for "emergency work" which is performed in the interest of public safety or welfare and for which a permit has been issued by the director of public health(the Director).

It shall be unlawful for any person, firm, corporation, partnership, or other entity to engage in a construction project activity on Sundays or legal holidays without a permit from the police chief issued pursuant to G.L. c.136, §§ 7 or 15 and a permit issued by the director of public health hereunder.\*

\*Amended November 26, 2002 - 8289

(b) Emergency work permits may be issued in:

1) cases of urgent necessity and for the interests of health, safety and convenience of the public. The **director of public health\*** shall **determine \*** whether the reasons given for the urgent necessity are valid and reasonable, and whether the health, safety and convenience of the public will be protected or better served by granting the permit requested and whether the manner and amount of loss or inconvenience to the party in interest imposes a significant hardship; or,

\*Amended November 26, 2002 - 8289

2) cases where because the location and nature of the work the noise caused by said work will not be heard by anyone not working on the project. **The director of public health \*** shall consider whether supplying machinery and/or materials to the construction project site will cause unreasonable noise along the routes to the construction project site, and whether such activity will impact residential neighborhoods, and shall not grant any emergency work permit unless unreasonable noise in residential areas will be prevented.

\*Amended November 26, 2002 - 8289

(c) Emergency work permits may be issued to the general contractor on a blanket basis that applies to all of the contractors working on the job, or may be issued to specific contractors on the construction project, at the discretion of **the director of public health \***. Emergency work permits may be issued for not more than one week at a time, and may be renewed for additional one week periods at the discretion of **the director of public health \***.

\*Amended November 26, 2002 - 8289

(d) Prior to issuing or reissuing said emergency work permit the **director of public health \*** shall review the work being conducted and all attendant circumstances, and shall prescribe whatever limitations possible to minimize the generation of noise, and to minimize the impact of noise on the neighbors to the construction project.

\*Amended November 26, 2002 - 8289

(e) Emergency repair work performed by the Department of Public Works and/or any public utility is exempt from this section.

(f) The fee for each such Emergency work permits issued under this section shall be set in accordance with Chapter 2, § 24 of these ordinances.

(g) On any project for the construction, reconstruction, installation, demolition, maintenance or repair of any building, or public work, to be funded

in whole or in part by city funds, or funds which, in accordance with a federal or state grant, program, or otherwise, the city expends or administers, or any such project to which the city is a signatory to the contract therefor, the provisions of this section shall apply and the same shall be referenced in every invitation to bid for such project and, the following paragraphs shall be contained in every resulting contract therefrom:

"It shall be a material breach of this contract if the contractor and each subcontractor on shall not at all times adhere to the provisions of § 34 of chapter eight of the Revised Ordinances of the city, by limiting their on-site, noise producing construction and related work to the hours specified by the Ordinance.

A waiver from the above requirements may, in certain circumstances, be granted in accordance with subsections (b), (c) and (d) of § 34 of chapter eight of the Revised Ordinances of the city."

(h) the **director of public health** \* shall have the authority to adopt any rules and regulations he or she deems necessary to implement this section.

**\*Amended November 26, 2002 - 8289**

(i) Nothing in this section shall be deemed to prevent an individual from performing work on his or her own property, so long as the work is being done by the owner of the property or by direct relative(s) of the owner, and said work is not being done for profit.

**(j) This ordinance may be enforced by the director of public health; the director of code enforcement; or the police chief.\***

**\*Amended November 26, 2002 - 8289**

(k) Any violation of this ordinance by any person, firm, corporation, partnership, or other entity, shall be individually punished with a fine of \$100.00. Each day upon which a violation of this ordinance occurs shall be considered a separate violation. Employers shall be deemed the violator for violations committed by their employees.

#### **MERCURY FEVER THERMOMETERS**

#### **S35. Declaration of Finds and Policy - (Ordained May 8, 2001 - 8080)**

Mercury is a persistent and toxic pollutant that bioaccumulates in the environment and the food chain. The incineration of medical and municipal waste, which contains whole or broken thermometers, is a major source of atmospheric deposition of mercury in the Northeast resulting in contamination of air and water. Mercury from mercury fever thermometers can also directly enter the environment through vaporization and/or spillage when a fever thermometer breaks during use, transportation or disposal.

The United States Environmental Protection Agency (US EPA) estimated that for the year 2000, 17 tons of elemental mercury from thermometers will be

disposed of as municipal solid waste - this does not include additional mercury that finds its way into the medical waste stream. Accidental mercury spills, breakages, and releases have occurred at schools throughout the Northeast. In addition to the threat of health risks to students and staff and potential for adverse environment impact, these discharges are costly, Harvard University has sited that it costs \$110 to properly clean up a single thermometer breakage in a laboratory. These incidences have proven costly to clean up and have exposed students, teachers and/or administrators to mercury emissions.

Due to the bioaccumulation of mercury in fish, the Massachusetts Department of Public Health has issued a statewide native fresh water fish advisory, warning pregnant women, women of childbearing age and children not to consume any fish.

Pharmacy chains of Rite-Aid, K-Mart, Brooks, Target, Wal-Mart, Albertson, Kinney, Toys 'R' Us, Safety First, The First Years and Meijers among others have joined a Mercury Free Thermometer campaign, pledging to discontinue the sale of mercury basal and fever thermometers.

The New England States and Eastern Canadian Provinces are implementing a bi-national mercury plan, which was unanimously adopted in June of 1998 by the Conference of New England Governors and Eastern Canadian Premiers (and signed by Governor Cellucci in June 1998). The mercury action plan is an ambitious program to virtually eliminate the emissions of mercury in the region. The regional goal of this action plan supports the virtual elimination of anthropogenic mercury.

The "Massachusetts Zero Mercury Strategy", formed by Environmental Affairs Secretary Robert Durand, adopted in the summer of 2000 an ambitious strategy that calls for virtual elimination of the use and discharge of mercury including mercury fever thermometers.

It is the intent of this Ordinance to protect and promote the public health and safety of Worcester residents by significantly reducing the discharge of mercury into the environment.

**S36. Definitions - (Ordained May 8, 2001 - 8080)**

- a) *Mercury-Fever Thermometer* - A mercury-containing product that is used to measure body temperature. A mercury-containing product is a product, device, instrument or equipment into which elemental mercury or mercury compounds are intentionally added during its formulation or manufacture and in which the continued presence of mercury is desired to provide a specific characteristic or to permit a specific function.
- b) *Health Care Facility* - Any hospital, nursing home, extended care facility, long-term facility, clinic or medical laboratory, state or private health or mental institution, clinic, physician's office, or health maintenance organization.
- c) *Manufacturer* - Any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that produces a mercury fever thermometer. If the mercury thermometer is produced in a foreign country, the manufacturer is the importer or domestic distributor.

**S37. Retail Sales Prohibited - (Ordained May 8, 2001 - 8080)**

No mercury fever thermometers shall be sold or supplied to consumers or patients in the city of Worcester without a prescription therefor. The manufacturers of mercury fever thermometers shall supply clear instruction on the careful handling of the mercury fever thermometer to avoid breakage and proper cleanup should a breakage occur with all mercury fever thermometers sold through prescriptions.

**S38. Manufacturing Prohibited - (Ordained May 8, 2001 - 8080)**

It shall be unlawful for any person to manufacture a mercury fever thermometer in the city of Worcester.

**S39. Importation Prohibited - (Ordained May 8, 2001 - 8080)**

It shall be unlawful for any facility to import, purchase, or distribute a mercury fever thermometer in the city of Worcester, except in the case of medical necessity as determined by a licensed physician.

**S40. Restriction on the Sale of Mercury Thermometers - (Ordained May 8, 2001 - 8080)**

Effective January 1, 2002, no person shall sell or supply mercury fever thermometers to consumers or patients in the city of Worcester.

**S41. Penalty - (Ordained May 8, 2001 - 8080)**

Any person violating this ordinance shall be subject to a fine of not more than three hundred (\$300.00) dollars per unit supplied, sold or unlawfully delivered. **The director of public health or his or her designee shall be the enforcing person for purposes of this ordinance.\***

**\*Amended November 26, 2002 - 8290**

**§ 42. Nuisances on Property (Ordained October 16, 2007 - 9074)**

(a) *Purpose and Intent.* It is the purpose and intent of this section to eliminate nuisances in the City of Worcester. Nuisances, such as dilapidated buildings, overgrowth, debris, trash, stagnant pools of water, property having defective weather protection and vacant or abandoned buildings, cause and contribute to blight within neighborhoods and commercial areas of the city and adversely affect the property values for adjacent and surrounding property. Such nuisances on property also impair the public health and safety. This ordinance is intended to further the objectives of and to act in concert with any existing state or local laws.

(b) *Property Standards.* All property in the city of Worcester shall be maintained in the accordance with the following property standards:

(1) *General.* All property, whether occupied or vacant, shall be maintained in good repair and a safe and sanitary condition as provided herein, so as to not cause or contribute to the creation of a hazardous or blighted area or to affect adversely the public health and safety or property value of adjacent or surrounding property.

(2) *Overgrowth.* All property shall be maintained free of vegetation over twelve (12) inches high that is or may reasonably become infested with rodents, vermin, or other animals, conceal pools of stagnant water, or create

a fire safety hazard. All property shall be kept free of overgrown, decayed, dead, or hazardous trees, shrubs, or any other vegetation that poses a hazard to the health and safety of any person in the vicinity of the property, including any persons traveling on any portion of any public way, or any surrounding property.

(3) *Structures.* All structures, including any buildings, fences, storage sheds, or any element thereof shall be maintained in a structurally sound condition and in good repair, including proper weather protection and waterproofing, and shall be maintained in a condition so as to not cause or contribute to creation of a fire safety hazard. All property shall be maintained free of extensive peeling, flaking, or chipped paint. All property with siding shall be maintained in a weather resistant and watertight condition.

(4) *Accumulation of Trash, Rubbish or Debris.* All property shall be maintained in a clean and sanitary manner and free from the accumulation of litter, rubbish, trash or other debris, except in closed receptacles intended for such use.

(5) *Pools of Stagnant Water.* All property shall be maintained to prohibit the formation of stagnant pools of water, which may affect adversely the public health by attracting and harboring mosquitoes and other insects.

(c) *Removal of Nuisance.* It shall be unlawful for the owner of any property in the city to violate any one or number of the property standards contained in section (b) and any such property in violation shall be deemed to be a public nuisance. The commissioner of health and human services, the director of code enforcement, or the fire chief shall declare the property a public health nuisance and order the property owner to remove the nuisance within ten (10) days after service of notice of the violation. Such notice shall be served in accordance with M.G.L. c. 111, § 124. The notice shall contain the following information:

1. The street address and description of the property sufficient for identification of the property.
2. A statement that the property has been declared a public nuisance because of the presence of a nuisance on the property.
3. A concise description of the conditions on the property that have lead to the determination that the property is a public nuisance.
4. A statement that the nuisance shall be removed from the property within ten days from service of the notice and that if the owner fails to remove the nuisance within the time frame specified that the owner will be in violation of this ordinance and subject to the penalties described therein.

(d) *Violations.*

(1) If the owner fails to remove such nuisance within the time frame provided in the section (c), the city may enter the property and remove or caused to be removed the nuisance and the owner shall reimburse the city for the expense incurred for such removal. The sum so expended may be recovered by the city as provided in M.G.L. c. 111, § 125 or in an action of contract by the city against the owner.

(2) This Ordinance may also be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, Chapter 40, §21D. Each day on which a violation exists shall be deemed to be a separate offense and any person in violation of this ordinance shall be subject to the following fines:

first violation:	fifty dollars
second violation:	one-hundred dollars
third violation:	two-hundred dollars
fourth and each subsequent violation:	three-hundred dollars

(3) In addition to the penalties set forth above, the commissioner of the department of health and human services, the director of code enforcement, or the fire chief may seek an injunction from a court of competent jurisdiction to restrain any violation of this ordinance.

(4) This Ordinance shall not be enforced against the city or the Commonwealth of Massachusetts, its authorities, departments, or agencies.

(e) *Definitions.* The following words and phrases, when used in this section, shall have the following meanings:

"*Nuisance*" -A failure to satisfy any one or more of the property standards set forth in section (b) herein.

"*Owner*"- means any person who owns, possesses, manages, or controls any property and shall be sufficiently identified by the name and address appearing in the records of the city assessor.

"*Property*" - means any land, building, structure of real property, including any fixtures attached hereto, or any personal property located within the city of Worcester.

"*Person*" - means any individual, voluntary association of individuals, business entity, or organization whether incorporated or not.

**§ 43. Graffiti on Private Property (Ordained October 16, 2007 - 9072)**

(a) *Purpose And Intent.* It is the purpose and intent of this section to eliminate graffiti in the city of Worcester. Graffiti on buildings, walls, signs, and other structures or places or other surfaces causes and contributes to blight within neighborhoods and commercial districts of the city and constitutes a public nuisance. Graffiti impairs public health and safety and degrades the value, condition, or appearance of real or personal property and contributes to the general deterioration of property and business values for adjacent and surrounding property. The purpose of this ordinance is to provide the city with enforcement tools to eliminate graffiti on private property and to impose penalties upon private property owners who fail to remove graffiti from their property in a timely manner. This ordinance is not intended to supersede any existing vandalism and anti-graffiti state laws.

(b) *Definitions.* The following words and phrases, when used in this section, shall have the following meanings:

"*graffiti*" - the intentional painting, marking, scratching, coloring, tagging or other defacement of any property without the consent of the owner.

"*person*" - means any individual, voluntary association of individuals, business, entity, organization whether incorporated or not.

"*owner*" - means any person who owns, manages or controls any property and shall be sufficiently identified by the name and address appearing in the records of the city assessor.

"*property*" - means any land, building, structure of real property, including any fixtures attached thereto, or any personal property located within the city of Worcester.

(c) *Removal Of Graffiti.* It is the responsibility of the owner of the property to which graffiti has been applied to promptly remove the graffiti. No owner of property shall allow graffiti to remain on the property for a period of seven days after service of notice of the graffiti from the commissioner of the department of health and human services, or his or her designee. The notice shall contain the following information:

1. The street address and description of the property sufficient for identification of the property;
2. A statement that the property has been declared a public nuisance because of the presence of graffiti on the property;
3. A concise description of the conditions on the property that have lead to the determination that the property is a public nuisance;
4. A statement that the graffiti shall be removed from the property within seven days from service of the notice and that if the owner fails to remove the graffiti within the time frame specified that the owner will be in violation of this ordinance and subject to penalties described therein.

(d) *Violations.* This Ordinance may be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, Chapter 40, §21D. Any person in violation of this ordinance shall be punished by a fine of not more than twenty-five dollars (\$25.00). Each day on which a violation exists shall be deemed to be a separate offense. The commissioner of the department of health and human services or his or her designee may seek an injunction from a court of competent jurisdiction to restrain any violation of this ordinance. This Ordinance shall not be enforced against the city or the Commonwealth of Massachusetts, its authorities, departments, or agencies.

CHAPTER NINE

PUBLIC SAFETY

- § 1. Disorderly Behavior
- § 1A. Excessive and Unreasonable Noise
- § 2. Bathing in Public
- § 3. Distribution of Commercial Advertising Material
- § 4. Open Alcoholic Beverages Containers
- § 5. Conduct and Attire in Places Licensed to Sell Alcoholic Beverages
- § 6. Spray Paint Cans and Indelible Markers
- § 7. Air Guns
- § 8. Firearms
- § 9. Alarm System Regulations
- § 10. Control of Alarm Systems
- § 11. Testing of Equipment
- § 12. Penalties
- § 13. Historic Building Demolitions
- § 14. Securing Abandoned or Vacant Buildings
- § 15. Abandoned Shopping Carts

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§ 1. Disorderly Behavior

No person shall engage in fighting, threatening or violent or tumultuous behavior; or conduct that creates a riotous commotion and excessively unreasonable noise so as to constitute a public nuisance; or conduct that creates a hazardous or physically offensive condition; which behavior or conduct has the purpose of causing public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, and which serves no legitimate purpose of the actor. \*

\*Amended June 10, 2003 - 8355

§ 1A. Excessive and Unreasonable Noise - (Ordained January 6, 2004 - 8387)

(a) Findings and Declaration of Policy

(1) *Findings.* The city council hereby finds that excessive and unnecessary noise is a significant threat to the health, welfare, safety, and the quality of life of the public; that excessive and unnecessary noise over an extended period of time leads to hearing loss; that excessive and unnecessary noise may interfere with personal communication, cause sleep disturbances, create anxiety and distress and

aggressive behavior. The city council further finds that a substantial body of science and technology exists by which excessive and unnecessary noise may be substantially abated.

(2) *Declaration of Policy.* In consideration of the above findings, and recognizing that Amendment Article 97 to the Constitution of the Commonwealth of Massachusetts establishes that the people have a right to be free from excessive and unnecessary noise, it is hereby declared to be the public policy of the city of Worcester to reduce the ambient noise level in the city to safe and reasonable levels and to eliminate the episodic creation of excessive and unnecessary noise so as to preserve, protect and promote the public health, safety, welfare and peace and quiet of the inhabitants of the city, to prevent injury to human, plant and animal life and property, to foster the convenience and comfort of its inhabitants, and to facilitate the enjoyment of the natural attractions of the city.

(b) Definitions - For purposes of this section 1A, the following words shall have the meanings respectively set forth below:

"*A level*" means the total sound level of all noise as measured with a sound level meter using the "A" weighting network. The unit of measurement is the dB(a).

*Ambient*" means the background level of sound immediately preceding the sound produced by the object or person under scrutiny and, when measured mechanically or electronically, is the A-weighted sound level that is exceeded 90% of the time measured during equipment operating hours.

*Device*" means any mechanism which actually produces sound when operated or handled.

*Motorcycle*" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including any bicycle with a motor or driving wheel attached, except a tractor or a motor vehicle designed for carrying golf clubs and not more than four persons, an industrial three-wheel truck, or a motor vehicle on which the operator and passengers ride within an enclosed cab.

*Motor Vehicle*" means any device which is propelled by an engine, other than a motorcycle, in or upon which a person or material may be transported on the ground and which is intended to be operated upon a public highway.

*Person*" means any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof.

*Plainly Audible*" means any sound that can be detected by a person using his or her unaided hearing faculties. (As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound).

*Public Place*" shall include any public way, any private way open to public use and on the official map of the city or any way for vehicular travel in any

city park, playground, public school property or land under the control of any city department.

"*Sound Level Meter*" means any instrument including a microphone, amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specific manner.

"*Sound Reproduction Device*" means any device, electronic or otherwise, which is capable of producing, reproducing or amplifying sound, including but not limited to any musical instrument, radio, television, tape recorder, compact disc or DVD player, public address ("P.A.") or other sound amplifying system.

"*Sound Signal*" means any sound produced by an electronic sound signal device designed to transmit information.

(c) Sound Levels for Motor Vehicles

(1) No person shall operate any motor vehicle or any sound reproduction device within any motor vehicle in such a manner that the vehicle or sound reproduction device is plainly audible in a public place at a distance of 50 feet or more in any direction from the vehicle.

2) Except where necessary to avoid a collision with another motor vehicle or with a pedestrian, no person shall operate a horn or warning device from any motor vehicle or motorcycle such that the sound emanating from such act is plainly audible in a public place at a distance of 125 feet or more from said vehicle or motorcycle.

(3) No person shall operate any siren in any public place except authorized employees of public entities providing law enforcement, fire suppression, first responder or advanced life support services in the immediate act of responding to an emergency or engaged in a training exercise.

(d) Sound Levels for Motorcycles

(1) No person shall accelerate a motorcycle in such a manner as to cause any sound which is plainly audible over the ambient noise level in a public place at a distance of 50 feet or more in any direction from the vehicle.

(2) No person shall operate a motorcycle in such a manner as to exceed 82 dB(A) when operated at a speed of 45 mph or less, or in such a manner as to exceed 86 dB(A) when operated within a speed zone of over 45 mph. The sound level shall be measured by a sound level meter at a distance of fifty-five feet or more from the center lane of travel, as provided in G.L. c. 90, §7U.

(3) No person shall operate a motorcycle whose exhaust system, muffler or any other equipment or element of design incorporated into the motorcycle in compliance with federal or state laws or regulations pertaining to motorcycle noise or air pollution emissions has been removed or rendered inoperative by any person.

(e) Sound Levels Generally

(1) No person shall operate any electronic sound reproduction device so as to create sound which is plainly audible in a public place at a distance of

25 feet or more in any direction from the device or the premises containing the device, whichever is greater.

(2) No person shall operate any self-contained, portable, hand-held sound reproduction device in such a manner as to be plainly audible in a public place at a distance of 25 feet or more in any direction from the operator.

(3) No person shall create any sound on any street adjacent to a hospital or medical treatment facility at any time which is plainly audible at any place within 25 feet of the property of such hospital or facility or which unreasonably disturbs the comfort or repose of any person of normal sensitivities in such hospital provided a plainly visible sign has been displayed on such street indicating the presence of such hospital or medical treatment facility.

(4) No person shall create any sound on any street adjacent to any public or private school, institution of higher learning or court whenever the same is in session which is plainly audible at any place within 25 feet of the property of such hospital or facility or which disturbs the operation of any such school or the proceedings in any such court provided a plainly visible sign has been displayed on such street indicating the presence of such school or court.

(5) No person shall engage in persistent or repeated yelling, shouting, hooting, whistling, singing, or the making of other loud noises between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible in any public place at a distance of 25 feet or more in any direction or so as to annoy or disturb the reasonable quiet, comfort or repose of persons in any dwelling, hotel, hospital, or other type of residence, or in any office, or of any persons in the vicinity of any such person in or on the public sidewalks, ways or other public places.

(6) No person shall operate any sound reproduction device for commercial or business advertising purposes or for the purpose of attracting attention to any performance, show or sale or display of merchandise, in connection with any commercial or business enterprise in front or outside of any building, place or premises abutting on or adjacent to a public street, park or place where the sound therefrom is plainly audible on any public street, park or place, or from any stand, platform or other structure or anywhere on the public streets, parks or places.

(7) No person shall make or cause or permit to be made or caused any music or sound originating from or in connection with the operation of any commercial establishment or enterprise when the level of sound increases the broad band sound level, when measured at the property line of the establishment, by more than 10 dB(A) above ambient, or produces a pure tone condition (a condition is created when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by three decibels or more).

(8) No person shall operate any power saw, drill, grinder, lawn mower, lawn or garden tool, or similar tool at any time between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and Saturday or between the hours of 9:00 p.m. and 9:00 a.m. on Sunday and legal holidays, such that the sound emanating from any such activity is plainly audible in a public place at a distance of 50 feet or more.

(9) No person shall operate any powered construction equipment or build, erect construct, demolish, alter, repair, excavate or engage in hoisting, grading, site work, including tree and brush removal, dredging or pneumatic hammering, or deliver construction equipment and/or supplies to the site on any building, road, tower, parking lot, machine, pipe, sewer, sidewalk, or any other construction project, except between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and Saturday, and between the hours 9:00 a.m. and 7:00 p.m. on Sundays except for work performed by a public service or municipal utility department or "emergency work" performed with the express written permission of the commissioner of code enforcement or the commissioner of public works. Emergency work shall be limited to such work that is clearly essential to response to a sudden and unexpected threat to public health or public safety. Emergency work permission may be granted to a general or subcontractor on a blanket basis governing all persons working on a specified portion of a particular job. Emergency work permission may be granted for not more than one week at a time, and may be renewed for additional one week periods at the discretion of the commissioner who granted the initial permission.

(f) City Contracts

(1) On any project for the construction, reconstruction, installation, demolition, maintenance or repair of any building, or public work, to be funded in whole or in part by city funds, or funds which, in accordance with a federal or state grant, program, or otherwise, the city expends or administers, or any such project to which the city is a signatory to the contract therefor, the provisions of this section shall apply and the same shall be referenced in every invitation to bid for such project and, the following paragraphs shall be contained in every resulting contract therefrom:

"It shall be a material breach of this contract if the contractor and each subcontractor shall not at all times adhere to the provisions of § 1A(e)(9) of chapter nine of the Revised Ordinances of the city by limiting their on-site, noise producing construction and related work to the hours specified by said ordinance".

(2) The director of purchasing, commissioner of code enforcement and the head of any department shall have the authority to adopt any rules and regulations they deem necessary to implement this subsection with respect to contracts generally and the head of the department awarding any such contract shall have the authority to adopt any rules and regulations he or she deems necessary to implement this subsection with respect to any particular project.

(g) Exemptions

This ordinance shall not apply to:

- (1) Sound from activities in the public parks, playgrounds, playing fields, or public property or buildings of the city used under the written permission of the municipal official or body charged with the care, custody and control of said facility; provided that, any amplified sound generated by such activities shall not be plainly audible at a distance of 50 feet or more from said public park, playground, playing field, or public property or building.
- (2) Sound from parades, rallies, public assemblies, demonstrations, special events, sporting events or sound trucks may for brief periods reasonably exceed the sound level limits contained herein; provided,

however, that no person shall increase the amplification level of the sound generated by such activities to the point where it is consistently and plainly audible in a public place at a distance of more than 50 feet from the perimeter of the property containing such activity.

- (3) Sound from bells, chimes, or carillons from a structure operated for non-commercial purposes between the hours of 8:00 a.m. and 9:05 p.m., and during special events.
  - (4) Sound from snow blowers, snowplows, and other snow removal equipment during or immediately after a snowfall, and the use of power equipment necessary for emergency repairs or debris removal due to severe weather.
  - (5) Sound from trains, boats and personal watercraft operated in compliance with state law.
  - (6) Sound from aircraft landing, taking-off, or taxiing at Worcester Regional Airport.
  - (7) Sound from lawfully permitted fireworks displays.
- (h) Enforcement and Penalties

The penalty for each violation of this section 1A shall be fifty (\$50.00) dollars. The provisions of this section 1A shall be enforced using the noncriminal disposition process as provided in General Laws, chapter 40, §21D by the chief of police and every city police officer and official and any other individual listed as an "enforcing person" under the relevant provision of chapter 15 of the Revised Ordinances.

## **§ 2. Bathing in Public**

No person shall swim or bathe, unless properly clothed, in any of the waters within the city, so as to be exposed to the view of spectators from any building, highway, street or railroad.

## **§ 3. Distribution of Commercial Advertising Material**

(a) It shall be unlawful for any person to distribute or cause to be distributed any advertising matter whether printed or written or any sample or device, circular, leaflet, pamphlet, paper, booklet or other advertising material at a home within the city or other than at the home of the person distributing the same, by placing such material at the home, or upon the property of the person owning or occupying the home, unless the distributor obtains the written consent of the person occupying the home.

(b) The foregoing provisions shall apply solely to commercial advertising and shall not prohibit the distribution of newspapers regularly sold by the copy or by subscription for a period of time; nor shall they apply to any person engaged in distribution of materials for charitable, benevolent, fraternal, religious or political activities or to any person exempted by any General Law or to the distribution of advertising through the mail.

## **§ 4. Open Alcoholic Beverages Containers**

(a) No person shall drink any alcoholic beverages as defined in chapter 138, § 1 of the General Laws nor shall have in his possession any open

containers or containers whose seal has been broken and recapped of such beverages, while on, in, or upon any public way or sidewalk, or upon any way to which the public has a right of access, or any place to which the members of the public have access as invitees or licensees, park or playground, or private land or place, without the consent of the owner or person in control thereof. The burden of proving such consent shall be on the defendant.

(b) All alcoholic beverages being used in violation of this ordinance shall be seized and safely held until final adjudication of the charge against the persons so arrested or summoned before the court, at which time they shall be disposed of as directed by the court.

(c) A police officer witnessing a violation of this ordinance shall have the right to arrest such person without a warrant and shall bring the person so arrested before the court within twenty-four hours, Sundays and holidays excepted.

(d) The penalty for violation of this ordinance shall not exceed fifty dollars for each offense.

#### **§ 5. Conduct and Attire in Places Licensed to Sell Alcoholic Beverages**

(a) No person shall offer to view, set up, maintain, carry on, engage in or perform the following acts or conduct in or on premises licensed in accordance with General Laws chapter 140, §§ 181 or 183A, such acts or conduct being deemed as contrary to the public need, the common good and the preservation of public order.

(b) Except as otherwise authorized by law, it is forbidden to employ or permit any person including entertainers in or on licensed premises while unclothed or in such attire so as to expose to view or to display the naked aureola, pubic hair, the cleft of the buttocks, the anus, vulva or genitals.

(c) It is forbidden to employ or permit any person including entertainers to mingle with patrons while unclothed or in attire proscribed in subsection (a).

(d) It is forbidden for any person including entertainers in or on the licensed premises to touch, caress or fondle the breasts, buttocks or genitals of any other person.

(e) It is forbidden for any person including entertainers to wear or use any device openly exposed to view as described in paragraph (a) which simulates the breasts, buttocks, pubic hair, genitals, vulva, anus or any portions thereof.

(f) It is forbidden to employ or permit any persons including entertainers in or on the licensed premises to perform an act or acts, or simulate the act or acts, of:

(1) sexual intercourse, masturbation, sodomy, bestiality, cunnilingus, fellatio, flagellation or other sexual acts prohibited by law;

(2) touching, caressing or fondling of the breasts, buttocks or genitals of another.

(g) It is forbidden to employ or permit any person including entertainers in or on the licensed premises to show motion picture films,

television type cassettes, still pictures or other photographic reproductions depicting any of the acts, or simulation of the acts, prohibited in §1.

(h) In addition to the foregoing, no person licensed under General Laws, chapter 140, section 181 or 183A or chapter 138, §12 shall employ, use the services of or permit upon licensed premises any employee including entertainers or other person who by lack of attire or conduct violates any like General Law, special act, or ordinance of the city.

#### **§ 6. Spray Paint Cans and Indelible Markers**

(a) As used in this section:

- (1) "indelible marker" - means any felt tip marker, china marker or similar device that is not water soluble and which has a flat or angled writing surface one-half inch or greater.
- (2) "minor" - means any person under the age of eighteen years.
- (3) "person" - includes any retail establishment.

(b) No person shall sell or offer for sale, transfer or offer to transfer any spray paint container or indelible marker unless such spray paint container or indelible marker is held for sale or transfer in an enclosed device which is constructed to prevent removal of the merchandise except by authorized attendants or is stored, out of sight, in such a way as to prevent free access to the merchandise by the public.

(c) No person shall sell or otherwise transfer any spray paint container or indelible marker to a minor, unless the minor is accompanied by his or her parent or legal guardian at the time of the purchase or transfer.

(d) No minor shall, at the time of purchase of items specified in subsection (b) of this section, knowingly furnish fraudulent evidence of maturity including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, an identification card issued to a member of the armed forces, or any document issued by a federal, state, county or municipal government.

(e) Any person who violates the provisions of this section shall be subject to a fine or penalty not less than fifty dollars nor more than three hundred for each offense.

#### **§ 7. Air Guns**

No person shall fire or discharge any air gun, bow gun, spring gun, any instrument discharging a projectile or any other similar weapon, in or across any of the streets, highways, squares or public parks or near any dwelling house within the city.

#### **§ 8. Firearms, Air Rifles and BB Guns (Amended October 2, 2007 - 9069)**

(a) No person shall fire or discharge any gun, pistol or other firearm, that shall be loaded with ball, or shot or bullet or with powder only, in or across any of the streets, highways, or public parks, or squares or near any dwelling house within the city; provided that this section shall not apply to the use of such weapons at any military exercise or review under the authority of a commissioned or non-commissioned officer of the of the militia or of the

military, or in the lawful defense of the person, family or property of any person, or in the performance of any duty authorized by law including discharge of a firearm by any member to the Worcester Police Department, nor to any person firing a salute of cannon or artillery or firearm by leave of the city manager.

(b) No person shall sell to a minor under the age of eighteen any air rifle or so-called BB gun and no person not being the parent, guardian, or adult teacher or instructor shall furnish to minor under the age of eighteen any air rifle or so-called BB gun. Whoever violates this provision shall be punished by a fine of one hundred fifty (\$150.00) dollars.

(c) No minor under the age of eighteen shall have any air rifle or so-called BB gun in his possession while in any place to which the public has a right of access unless he is accompanied by an adult or unless he is the holder of a sporting or hunting license and has on his person a permit from the chief of police of the town in which he resides granting him the right of such possession. Whoever violates this provision shall be punished by a fine of one hundred (\$100.00) dollars.

(d) No person shall discharge a BB shot, pellet or other object from an air rifle or so called BB gun in or across any of the streets, highways, public parks or squares or across any railroad or railway right of way. No minor under the age of eighteen shall discharge a BB shot, pellet or other object from an air rifle or BB gun in any area not otherwise prohibited unless he is accompanied by an adult or is the holder of a sporting or hunting license. Whoever violates this provision shall be punished by a fine of one hundred (\$100.00) dollars.

(e) Any police officer witnessing a violation of subsections (b) or (c) or (d) of this section which also constitutes a violation of section 12B of chapter two hundred sixty-nine of the general laws shall have the right to arrest such person without a warrant and shall bring the person so arrested before the court within twenty-four (24) hours, Sundays and holidays excepted. Upon conviction of such violation the air rifle or BB gun or other weapon shall, by written authority of the court, be forwarded to the colonel of the state police, who may dispose of said article in the manner as prescribed in section 10 of chapter two hundred sixty-nine of the general laws.

## **§ 9. Alarm Systems Regulations**

(a) For the purpose of §§ 9 through 12, the following terms, phrases, words and their derivations shall have the meanings given herein.

"alarm system" - means an assembly of equipment and devices, or a single device such as a solid state unit which connects directly into a 110 volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which the police are expected to respond. fire alarm systems, alarm systems on motor vehicles, and alarm systems which monitor temperature, smoke, humidity, or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this section.

"alarm user" or "user" - means any person on whose premises an alarm system is maintained within the city. Excluded from this definition are:

- (i) municipal, county, state and federal agencies;

(ii) central station personnel;

(iii) persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. However, if such an alarm system employs an audible signal or a flashing light outside the premises, the user of such an alarm system shall be within the definition of "alarm user" and shall be subject to this ordinance.

"central station" - means an office to which remove alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.

"false alarm" - means the a) the activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or of his employees or agents; or b) any signal or oral communication transmitted to the police department requesting, or requiring, or resulting in response on the part of the police department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises or no attempted robbery or burglary at a premises. Excluded from this definition are activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes and similar conditions.

"public nuisance" means anything which annoys, injure or endangers the comfort, repose, health or safety of any person or of any community or neighborhood.

(b) The chief of police may promulgate such rules as may be necessary for the implementation of this ordinance.

#### **§ 10. Control of Alarm Systems**

(a) Every alarm user shall submit to the chief of police the names, addresses and telephone numbers of the user and at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises where the alarm system is installed. The list of names, addresses and telephone numbers of the responders must be kept current at all times by the alarm user and shall be submitted during the first month of each year.

(b) All alarm systems which use an audible bell or horn shall be equipped with an automatic shut off device which will deactivate the alarm system within ten minutes. All alarm users with an audible bell or horn must comply with this section within ninety days of the adoption of this ordinance.

(c) Any alarm system which fails to comply with the above paragraph (b) and emits a continuous signal for more than thirty minutes which cannot be shutoff or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (a) of this section, and which disturbs the peace, comfort or repose of a community, or a neighborhood of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous uninterrupted signal, the police chief shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of this section in an effort to abate the nuisance. The police chief shall record the time each complaint was made.

(d) In the event that the chief of police is unable to contact the alarm user or those persons designated by the alarm user under paragraph (1) of

this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system, and if the chief of police is otherwise unable to abate the nuisance, he may direct a police officer or a firefighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate nuisance.

(e) After an entry upon property has been made in accordance with this section and the nuisance abated, the chief of police shall have the property secured, if necessary. The reasonable costs and expense of abating a nuisance in accordance with this section may be assessed to the alarm user, said assessment not to exceed fifty-dollars.

#### **§ 11. Testing of Equipment**

No alarm system designed to transmit emergency messages directly to the police department shall be worked on, tested or demonstrated without obtaining permission from the police department communications section. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the police department. An unauthorized test constitutes a false alarm.

#### **§ 12. Penalties**

The following acts and omissions shall constitute violations of §§ 10 and 11 of this chapter and shall be punishable by the fines as herein provided:

(a) An alarm user whose alarm system transmits or otherwise causes more than two false alarms in a twelve month period shall be assessed a fine of \$25.00 for the second false alarm in any twelve month period, \$50.00 for the fourth false alarm in any twelve month period, and \$100.00 for each subsequent false alarm in any twelve (12) month period.

(b) An alarm user who fails to comply with any of the requirements of §10 of this chapter relative to control and curtailment of signals emitted by alarm systems shall be punishable by a fine of \$25.00.

(c) An alarm user who fails to comply with any of the requirements of §11 of this chapter relative to the testing of equipment shall be punished by a fine of \$25.00.

#### **§ 13. Historic Building Demolitions - (Ordained June 3, 1997 - 7267)**

(a) This section thirteen is enacted to preserve and protect historically significant buildings, landmarks and places within the city and to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them.

(b) The following words and phrases, when used in this section thirteen, shall have the following meanings:

"building" - any combination of materials forming a shelter for persons, animals or property.

"commission" - the Worcester Historical Commission established by Article 20 of Part II of these Revised Ordinances.

"demolition" - any act of pulling down, destroying, removing or razing a building or any designated historic portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same.

"director" - shall mean the director of code enforcement as established by § 3 of Article 9A of Part II of these Revised Ordinances.\*

\*Amended October 8, 2002 - 8259

"designated historic building" - any building or portion thereof, including those within any historic district established by the city under the provisions of c. 40C of the General Laws and § 1 of Article 20 of Part II of these Revised Ordinances, and which is listed on, or within an area listed on, the National Register of Historic Places, or the State Register of Historic Places, or is the subject of a pending application for listing on said Registers, or is listed on the National Register Eligible List established by the commission pursuant to its designation as a certified local government by the Massachusetts Historical commission.

(c) No person shall demolish any designated historic building without the approval of the commission as herein provided. The director shall not issue any permit for the demolition of any designated historic building unless the applicant for any such permit presents evidence of the approval of the commission as provided herein. The provisions of this subsection (c) shall not apply to the demolition of any designated historic building which has been approved in a Final Environmental Impact Report issued by the Secretary of Environmental Affairs under the Massachusetts Environmental Protection Act, G.L. c.30, §61 - §62H.

(d) The commission shall maintain a list of every designated historic building and shall keep a copy of such list on file with the director. The commission shall notify the director whenever it makes any changes to the list of designated historic buildings in Worcester.

(e) Any person may request the commission for approval of the demolition of a designated historic building. Such requests shall be filed in accordance with the procedure established by the commission. The commission shall designate an officer responsible for the receipt of such requests who shall establish a date and time for a public hearing on the application. Such hearing shall occur not more than forty-five days from the date the application for approval has been received by the commission. The commission shall publish a notice of the hearing in a local newspaper not less than fourteen days before the date of the hearing. The commission shall send by regular mail at least fourteen days before the hearing a notice of the hearing to any person whose property abuts the property of the applicant as determined from the records of the city assessor. The commission shall also notify the director of any such hearing and shall send notice by regular mail to any person who files a written request with the commission to receive such notices.

(f) At such hearing, the commission may receive information regarding the current condition of the building, its conformity with the standards for designation as a designated historic building, the cost to repair or maintain the building, the ability of the owner to provide such funds either directly or through third party financing, the economic viability of the current or potential uses of the building, as well as any other factor relevant to the application of this ordinance to the building.

(g) If, after such hearing, the commission determines either (1) that the demolition of the designated historic building would not be detrimental to the historical or architectural heritage or resources of the city, or (2) that the issuance of a demolition approval is necessary to avoid an undue economic hardship to the property owner, the commission shall approve the request and forthwith notify the applicant and the director of such determination. Upon receipt of such notification, or upon the failure by the commission to make the determinations described in subsection (i) herein after forty-five days from the date the application was filed with the commission, the owner may, upon receipt of a permit from the director, proceed with the demolition of the building.

(h) If, after such hearing, the commission determines both (1) that the demolition of the designated historic building would be detrimental to the historical or architectural heritage or resources of the city, and (2) that the immediate demolition of the building is not necessary to avoid an undue economic hardship to the property owner, the building may not be demolished until **twelve\*** months after the date upon which the request was filed with the commission. In notifying the property owner of its decision the commission shall specify the date upon which the six-month delay period expires. The six-month delay period established herein may be reduced at any time by the commission whenever it is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate, or restore such building. During the six-month delay period, the commission shall assist the owner in efforts to locate a purchaser to preserve, rehabilitate and restore the subject building.

**\*Amended June 29, 2004 - 8498**

(i) The approval of the commission, whether granted directly by vote of the commission or constructively by the passage of the forty-five day or **twelve-month\*** periods established herein, shall be valid for one year from the date of such approval.

**\*Amended June 29, 2004 - 8498**

(j) The commission is authorized to institute any and all proceedings in law or equity as it deems necessary and appropriate to obtain compliance with the requirements of this section, or to prevent violation thereof. The city solicitor shall represent the commission in all such proceedings.

(k) Any person who, without the actual or constructive approval of the commission as required by this section, demolishes or attempts to demolish any designated historic building, either as the owner of the building or acting as an agent or independent contractor engaged under authority of the owner, shall be punished by a fine of \$300.00. Each day that any portion of a designated historic building remains demolished, in whole or in part, shall constitute a separate offense.

(l) The provisions of subsection (c) of this section shall not apply if such building is the subject of an emergency order issued under authority of G.L. c. 143, §§ 6-9, or § 124 of the state building code, or an Executive Order Concerning Demolition Procedures, as issued and revised from time to time by the city manager. The provisions of subsection (c) of this section shall also not apply whenever, in the opinion of the director, the condition of any designated historic building requires immediate emergency action to abate a threat to the health or safety of the public. Nor shall the provision of said subsection (c) apply to the demolition of a designated historic building

located on any Priority Development Site designated by the City Council pursuant G.L. c.43D.\*

**\*Amended April 29, 2008 - 9151**

**§ 14. Securing Abandoned or Vacant Buildings (Ordained February 27, 2001 - 8052)**

(a) Unsecured, vacant, and abandoned buildings present danger to the safety and welfare of public safety officers and the public, and, as such, constitute a public nuisance. This section is enacted to promote the health, safety and welfare of the public and to minimize hazards to public safety personnel inspecting or entering such buildings by preventing unauthorized persons from gaining entry to abandoned and vacant buildings.

(b) The following words and phrases, when used in this section, shall have the following meanings:

"abandoned building" - (1) a vacant building, the ownership responsibilities of which have been surrendered or relinquished, whether intentionally or by failure to occupy and maintain such property; or, (2) buildings, structures and premises for which the owner cannot be identified or located by delivery of certified mail at the last known or registered address, which persistently or repeatedly becomes unprotected or unsecured or, which is or has been occupied by unauthorized persons.

"building" - any combination of materials having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons or property, excluding accessory structures that are incidental to the principal structure located on the same lot, such as but not limited to dog houses and storage sheds; structures used on a seasonal basis such as vacation premises or resort facilities; and structures that are temporarily vacant for owner or tenant change or for remodeling.

"certificate of building closure" - certificate issued by the **director\*** to the owner of a vacant building or abandoned building upon compliance with the provisions of paragraph (c) herein.

**\*Amended November 26, 2002 - 8292**

"dangerous building" - any unoccupied building that has been neglected and deteriorated; or abandoned, vacated, unused or open to weather to such an extent that it is a danger or potential danger to life or property.

**"director" - the director of the department of code enforcement or his or her designee.\***

**\*Amended November 26, 2002 - 8292**

"fire chief" - the chief of the Worcester Fire Department or his or her designee.

"owner/person" - (1) a person, trust, partnership, corporation or other entity capable of owning legal or equitable title to real property or capable of possessing legal or equitable interest in real estate or, (2) an authorized agent of the person or entity holding legal or equitable interest to real property, including but not limited to any person specified as a "contact person" pursuant to paragraph (c) (7) of this section.

"unsecured building" - any vacant or abandoned building not continuously secured, maintained, locked or boarded to prevent unauthorized entry or which fails to provide protection from weather damage.

"vacant building" - (1) unoccupied real property which is empty or remains empty for twenty-one consecutive days or longer of occupants having custody or legal right of entry to said property or, (2) any building which exhibits dilapidated walls, roof or doors which will fail to prevent the entry of a trespasser.

(c) Any owner/person who knows or reasonably should know that a building owned by said owner/person is or will become vacant or abandoned as those terms are defined herein or, any owner/person who intends to abandon or vacate a building owned or controlled by said owner/person shall forthwith:

1. Provide written notification to the **director\*** or the fire chief of the status of such building, including in such notice, the name, address and telephone number of the owner; the location of the building; the length of time the building has been vacant; the estimated time the building will remain vacant; and, the nature of the contents of the building; and,

**\*Amended November 26, 2002 - 8292**

2. As may be required by the fire chief, file one set of space utilization floor plans for said building with the fire chief and one set of said plans with the director\*. The owner shall certify space utilization plans as accurate twice annually, in January and July; and,

**\*Amended November 26, 2002 - 8292**

3. Remove from the building, to the satisfaction of the fire chief, hazardous material, as that term is defined in Massachusetts General Laws, chapter 21K, as that statute may be amended from time to time; and,
4. Secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board up Procedures or, provide twenty-four (24) hour on-site security personnel in the building. When a building is located within a complex of buildings owned by a single owner, twenty-four (24) hour on-site security shall be provided within the building or within the complex wherein the building is located; and,
5. Post "No Trespassing" signs on the building; and,
6. Provide the fire chief and director\* with the name, local address, and telephone number of a responsible person who can be contacted in case of emergency. The owner shall cause the name and contact number to be marked on the front of the building as may be required by the fire chief or **director\***; and,

**\*Amended November 26, 2002 - 8292**

7. Maintain liability insurance on the building and furnish the director\*with a copy of said certificate of insurance; and,
8. As may be required by the director\*, provide a cash bond acceptable to the **director\***, in the sum of not less than five thousand dollars, to secure the continued maintenance of the building throughout its vacancy and remunerate the city for any expenses incurred in inspecting, securing, marking or making such building safe.

**\*Amended November 26, 2002 - 8292**

Upon satisfactory compliance with the above-provisions, the **director\*** shall issue a certificate of building closure. Said certificate shall be valid for the length of time prescribed by the **director\*** and noted thereon; provided however, the certificate shall be subject to continued compliance with the provisions of this section.

**\*Amended November 26, 2002 - 8292**

(d) Signs/Markings - When required pursuant to this section, signs or markings shall be applied on the front of the building, and elsewhere as the fire chief may require, at or above the second floor level and shall not be placed over doors, windows, or other openings. All signs/markings shall be visible from the street and, when requested by the fire chief, shall be placed on the sides and rear of the building. Signs/markings shall be a minimum of 24 inches by 24 inches, with lines of 2-inch width, and shall have a reflective background, or be painted with reflective paint, in contrasting colors. Signs/markings shall be applied directly on the surface of the building and shall state the date of posting and the most recent date of inspection by the fire chief and **director\***.

**\*Amended November 26, 2002 - 8292**

(e) Enforcement - Failure to comply with any provision of paragraph (c) above shall be punished by a fine of three hundred (\$300.00) dollars with each day of violation constituting a separate offence. The **director\*** and/or the fire chief shall be enforcing persons for purposes of this section.

**\*Amended November 26, 2002 - 8292**

(f) The **director\*** or fire chief, upon being informed of the existence of an abandoned building or a vacant building without a certificate of building closure, shall cause notice to issue to the owner of the status of said building and shall order said person to immediately obtain a certificate of building closure. If any person fails to comply with said order, the fire chief or **director\*** may enter the premises to inspect, secure and mark the building.

**\*Amended November 26, 2002 - 8289**

(g) Expenses - The owner of an abandoned building or an owner of a vacant building who fails to obtain a certificate of building closure as required herein, shall be liable to the city for expenses incurred by the city in securing such building. The **director\*** shall provide the owner with a written statement of all costs associated with inspecting, securing and marking the building. If the owner fails to pay or reimburse the city within sixty days of notice of expenses, the city shall record the notice of claim in

the Worcester District Registry of Deeds (or the Land Court Department) forthwith, establishing a lien on the property for the balance due.

**\*Amended November 26, 2002 - 8292**

(h) No owner of a vacant building or abandoned building shall allow said building to become or remain unsecured or dangerous. If it appears that any vacant or abandoned building is unsecured or dangerous, the **director\*** shall send written notification to the owner, requiring that the owner promptly secure or cause the building to be secured.

If the owner fails to comply with any order issued pursuant to this provision (h), the fire chief or **director\*** may immediately seek to obtain the proceeds secured by the bond filed pursuant to paragraph (c) (8) herein and shall enter upon the premises and cause the building to be inspected, secured and marked using said proceeds.

**\*Amended November 26, 2002 - 8292**

(i) All unsecured vacant and unsecured abandoned buildings shall be immediately referred to the **director\*** for a determination relative to whether the building is a nuisance or dangerous pursuant to chapter 139 and procedures promulgated thereunder.

**\*Amended November 26, 2002 - 8292**

(j) Notices required pursuant to this section shall be served in the following manner:

1. Personally on the owner, or the lessee, or the mortgagee, or the contact person specified pursuant to paragraph (c)(6); or,
2. Left at the last and usual place of abode of the owner, or contact person as specified pursuant to paragraph (c)(6), if such place of abode is known and is within or without the commonwealth; or,
3. By certified or registered mail, return receipt requested, to the owner, or the lessee, or the mortgagee or contact person specified pursuant to paragraph (c)(6) if such address is known and is within the Commonwealth.
4. If the residence and whereabouts of the owner or, the owner's lessee or, the mortgagee or, the owner's agent are unknown or are outside the Commonwealth, then the notice shall be served by posting a copy thereof in a conspicuous place on the property and by advertising it for at least three out of five consecutive days in one or more newspapers of general circulation within the city.

**§ 15. Abandoned Shopping Carts - (Ordained January 31, 2006 - 8755)**

(a) INTRODUCTION

Commercial establishments, for the convenience of their customers, provide shopping carts. However, they often end up being abandoned on streets (public and private), sidewalks, in public parks and cemeteries and other public property other than that of the commercial establishment. When this happens, the carts constitute a hazard and a nuisance. Municipalities have tried a number of approaches to combat this problem in an attempt to keep carts on

the respective premises. Legislation is enacted to require shoppers to promptly return the cart; to declare abandonment of carts unlawful; to require that carts are permanently identified, including the name of the establishment, the address and telephone number; to require that signs are posted, stating that it is illegal to remove carts from the premises; and to require that no carts can remain unsecured in the parking lot after business hours. Furthermore, the City of Worcester is authorized to impound abandoned carts. The establishment, upon payment of a fee, may retrieve them and any unclaimed carts become the property of the City.

(b) LEGISLATIVE INTENT

The City Council of the City of Worcester finds and declares that the unlawful taking, misuse and abandonment of shopping carts and similar conveyances constitute a hazard to the health, safety and general welfare of the populace of the City adversely affecting the legitimate conduct of business in the City of Worcester and constitute a nuisance detrimental to individual neighborhoods and the community at large. The purpose of this Ordinance is to reduce the incidences of unlawful taking, misuse and abandonment of these devices through reasonable safeguards, by discouraging and preventing their removal from the property of the owner and by the establishment of penalties for violations of this Ordinance.

(c) DEFINITIONS

As used in this Ordinance, the following words and terms shall have the meanings indicated. The meaning of all other terms and words not specifically defined shall be their generally accepted definition:

ABANDONED: The leaving, discarding, dumping or placing of private property, which shall include shopping carts, in a public place other than the place of the person who makes the shopping cart available to the public.

DPW&P: The city of Worcester Department of Public Works and Parks, or its successor.

ESTABLISHMENT: A person owning, making available or having control of a place where shopping carts are utilized; the place of a person owning, making available or where shopping carts are utilized.

LOGO: A name, symbol, or trademark designed for easy and definite recognition.

OWNER: The owner of an establishment if it is owner-operated or the manager of an establishment if it is not owner-operated.

PERSON: An individual, corporation, partnership, association, joint-stock company, society or other legal entity.

PARKING LOT: Any parcel of land owned, leased, or otherwise under the direction and control of the owner and used for parking motor

vehicles related to the daily operations of the establishment and shall include the areas of ingress and egress.

**PUBLIC PLACE:** Any public or private street, sidewalk, public parking lot, public park, public cemetery and other areas publicly owned and operated or a segment thereof, excluding the interior or parking area of any building where a shopping cart was obtained.

**REMOVE:** To take, transport or otherwise convey from one place to another for any purpose, a shopping cart from the interior (if the building should have no parking area accessible to the public) or parking area of the place of the person who makes the shopping cart available to the public. Removal or transport of a shopping cart by the owner or agent of the owner for repair, shipment to another location or for any other legal purpose shall not constitute a violation of this ordinance.

**SECURE, SECURED:** To fasten (fastened) together or to a permanent structure such that an individual cart cannot be removed.

**SHOPPING CART:** A basket, which is mounted on wheels, or a similar device, generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

**CITY:** All areas within the geographical limits of the city of Worcester.

(d) **REMOVAL OF SHOPPING CARTS FROM PROPERTY OF OWNER PROHIBITED**

It shall be unlawful for any person to remove, for any purpose, a shopping cart, with identification markings as set forth in subsection (g) of this ordinance, from the interior of any establishment that does not contain a parking area or from the parking area of any establishment where a shopping cart was obtained. The possession of a shopping cart so marked by a person, other than the owner or agent of the owner, in a place other than that from which the shopping cart was legally made available to the public shall constitute a presumption that such person did unlawfully remove such shopping cart from the premises of the owner. Whoever violates this subsection is subject to penalty as set forth in subsection (1)(1).

(e) **CARTS IN PARKING LOTS AFTER BUSINESS HOURS**

**No establishment shall allow any shopping carts to remain unsecured in its parking lot after the establishment's normal business hours. Any establishment that is found to have failed to secure all shopping carts in its parking lot after the establishment's normal business hours shall be in violation of this section and is subject to penalty as set forth in subsection (L) (2).**

**\*Amended August 29, 2006 - 8839**

(f) **ABANDONING SHOPPING CARTS PROHIBITED**

It shall be unlawful for any person who obtains possession of a shopping cart from an establishment to leave or abandon the shopping cart in any public place other than the property of the establishment. Any person found in violation of this subsection is subject to penalty as set forth in subsection (1)(3).

(g) IDENTIFICATION MARKINGS REQUIRED

Every establishment, regardless of its size or the number of shopping carts on its premises, shall mark or cause to be marked any and all shopping carts in a conspicuous and permanent manner with the name of and/or company logo, the address and telephone number of the establishment from which it was made available or permitted to be utilized. The markings required by this subsection shall be affixed within 90 days of the adoption of this ordinance. Such identification shall be in the form of a waterproof tag or imprint securely affixed to the frame of the shopping cart or in some other equally noticeable and permanent manner. Upon expiration of this ninety-day period, any establishment with shopping carts not affixed with the identifying markings required by this subsection **while their shopping carts are still on their premises shall be in violation of this subsection and is subject to penalty as set forth in subsection (L)(4).\***

**\*Amended August 29, 2006 - 8839**

(h) POSTING OF SIGNS REQUIRED

Any person owning, making available or having control of a place where shopping carts are utilized, regardless of its size or the number of shopping carts on its premises, shall conspicuously post signs at said establishment, said signs to be posted in the interior of the establishments and in the parking lots of such establishments. The signs shall notify the public that the unauthorized removal of a shopping cart from the premises or parking area and/or the abandonment of a shopping cart is a violation of city ordinance. Such signs shall also list an address and telephone number for returning the shopping cart to the establishment. The signs required by this subsection shall be erected within 90 days of the adoption of this ordinance. The DPW&P, within 15 days of the adoption of this ordinance, shall provide the owner of each such establishment with the wording and form for the required signs, as well as indicate the number of signs that must be posted on each owner's property. The number of signs required will vary by store, depending on the number of entrances and exits and the number of shopping cart corrals in the parking lot. Upon the expiration of this ninety-day period, it shall be a violation of this Ordinance for any person to own, make available or permit shopping carts to be utilized in an establishment without first posting the signs required by this subsection. Whoever violates this subsection is subject to penalty as set forth in subsection (1)(5).

(i) REMOVAL OF SHOPPING CARTS - **(Amended August 29, 2006 - 8839)**

Abandoned shopping carts are declared to be a nuisance and a hazard.

The Commissioner of Public Works and Parks may, without notice, call for the removal, from time to time, of any abandoned shopping cart found in any public place. The impounded shopping carts will be transported to the DPW&P storage yard and recycling facility at 1065 Millbury Street or any other storage facility so designated by the Commissioner.

(j) RETRIEVAL OF SHOPPING CARTS - (Amended August 29, 2006 - 8839)

For those establishments that have implemented a theft deterrent system, per subsection (k) herein, there will be no impound fee and its carts will be returned to the owner free of charge. The owner shall be responsible for retrieving any and all impounded carts from the DPW&P storage facility.

If a cart does not have an identification marking then the Commissioner of Public Works and Parks may attempt to identify the owner of the cart and store it with other carts, if any, belonging to that owner.

Any cart that does not have the identification marking attached pursuant to subsection (g) herein and which is impounded pursuant to these subsections is deemed to be abandoned property and the Commissioner of Public Works and Parks may sell any such cart at public auction and the proceeds shall inure to the City of Worcester, or may destroy or otherwise dispose of any such cart.

For those establishments that have *not* implemented a theft deterrent system for their shopping carts or are not required to, per subsection (k) of this Ordinance, impounded shopping carts may be retrieved by the establishment upon payment of a \$20 impound fee per cart. Such payments shall be in the form of a store check in the amount of \$20 times the number of carts being retrieved and made payable to the "Department of Public Works and Parks".

All establishments, whether their carts are subject to impound fees or not, shall contact the DPW&P storage facility on a regular basis to determine if any of their shopping carts have been impounded and if so, how many and to schedule a retrieval appointment.

Any shopping cart that has not been retrieved by an owner within forty-five (45) days of the date it was impounded shall be deemed to be permanently abandoned and the Commissioner of Public Works and Parks may, in said Commissioner's sole discretion: (i) continue to release such carts to the owner in accordance with this Section, (ii) sell such carts at public auction and the proceeds shall inure to the City of Worcester, or (iii) destroy or otherwise dispose of such carts.

(k) MITIGATION REQUIREMENTS

1. Beginning 180 days after the adoption of this ordinance, all establishments that own, make available or have utilized more than 50 shopping carts shall be required to install a system that causes a wheel of the shopping cart to lock when the conveyance is

moved near or across an antenna located at the perimeter of the establishment's parking area **or other system deemed acceptable by the Commissioner of Public Works and Parks that would prevent the removal of shopping carts from the premises.\***

**\*Amended August 29, 2006 - 8839**

2. Establishments that own, make available or have utilized between 20 and 50 shopping carts shall have the option of installing the system described above or a shopping cart handle lock system deactivated through the introduction of a coin or coins that may be redeemed by the user upon return of the shopping cart **or other system deemed acceptable by the Commissioner of Public Works and Parks that would prevent the removal of the shopping carts from the premises.\***

**\*Amended August 29, 2006 - 8839**

3. Establishments that own, make available or have utilized less than 20 shopping carts are not subject to the requirements of (1) or (2) above.
4. Establishments, owners or persons that fail to comply with this Section are subject to penalty as set forth in subsection (1)(6) of this ordinance.

(L) PENALTIES FOR OFFENSES

This ordinance may be enforced by civil process, criminal process or by non-criminal disposition as provided in General laws, Chapter 40, §21D. Each day on which any violation exists shall be deemed to be a separate offense. Any fines and/or fees that remain unpaid by an owner for more than twelve (12) months may become liens against the real estate of the establishment. The penalty for each violation of this ordinance shall be as follows:

1. Removal of a shopping cart from the property of the owner: \$25.00
2. Establishment allowing any shopping carts to remain unsecured in its parking lot after **the establishment's normal\*** business hours: \$100.00 each occurrence

**\*Amended August 29, 2006 - 8839**

3. Abandoning a shopping cart in any public place other than the property of the establishment: \$25.00
4. Establishment failing to mark its shopping carts as per subsection (g) of this Ordinance: \$100 each occurrence
5. Establishment failing to post signs as per subsection (h) of this ordinance: \$100 each occurrence
6. Establishment failing to implement a shopping cart theft deterrent system within 180 days of the adoption of this ordinance per subsection (k): \$300 each occurrence

(m) APPEAL - **(Amended August 29, 2006 - 8839)**

1. An owner who has incurred a shopping cart-related fee under these Sections may obtain a hearing regarding the propriety of the fee by making a written petition to the commissioner of Public Works and Parks for a hearing within fifteen (15) calendar days after

retrieval of the impounded carts and payment of the impound fee pursuant to subsection (i). The Commissioner of Public Works and Parks shall provide written notice to the owner of the date, time and location of the hearing, and the hearing shall be held within thirty (30) calendar days from the date of the hearing request.

2. The Commissioner of Public Works and Parks or his or her designee shall act as the Hearing Officer and the decision resulting there from shall be final and subject only to judicial review allowed by law.
3. The Commissioner of Public Works and Parks shall notify the owner of the decision in writing within thirty (30) calendar days of the hearing.
4. Proceedings for review of the decision of the Commissioner of Public Works and Parks may be instituted in any court of competent jurisdiction within the Commonwealth of Massachusetts as allowed by law from the date of notice of decision of said Commissioner. The commencement of an action shall not operate as a stay of enforcement of said commissioner's decision, but the Commissioner of Public Works and Parks, at his or her discretion, may stay enforcement pending the outcome of any appeal as allowed by law.

(n) SEVERABILITY

If any clause, sentence, paragraph, subdivision, Section or part of this ordinance or the application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this ordinance, or its application to the person or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

CHAPTER TEN

FIRE SAFETY

- § 1. Hydrants
- § 2. Smoke Detectors in Certain Buildings
- § 3. Open Flame Devices
- § 4. Malicious Bonfires
- § 5. Fireworks
- § 6. Inflammable Fluids
- § 7. Garages and Lubratoriums
- § 8. Light and Power Companies
- § 9. Communications Equipment
- § 10. Interference with Firefighters
- § 11. Removal of Vehicles
- § 12. Alarm Systems
- § 13. Fees for Certain Licenses, Permits and Services
- § 14. Fire Alarm Service Fees
- § 15. Priority Site Development Licenses & Permits

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§ 1. Hydrants

(a) The location, relocation or discontinuance of all fire hydrants in the city, including such private hydrants as may be constructed to be used for fire purposes, shall be under the authority of the commissioner of public works, subject to the approval of the chief engineer of the fire department.

(b) No person, except a firefighter or fire officer in the legitimate discharge of his or her duties as a firefighter, shall open any hydrant without the consent of the commissioner of public works, and no person shall place any building material or other article, or rubbish of any kind so as to hinder the free access to the use of any hydrant nor shall any person maliciously destroy, deface or otherwise injure any hydrant.

(c) Any person who violates any provision of this section shall, upon conviction, be fined three hundred dollars.

§ 2. Smoke Detectors in Certain Buildings

(a) Every building or structure occupied in whole or in part for residential purposes and containing not less than three nor more than five dwelling units, (as that term is defined in 780 CMR 201.0), as amended), shall be equipped with an approved monitored battery powered smoke detector or an

approved primary smoke detector, (as defined by the General Laws, chapter 148, §26D, as amended).

(b) The said approved monitored battery powered smoke detector or approved primary powered smoke detector shall be installed in each dwelling unit outside each separate sleeping area, (as such term "separate sleeping area" is defined by the General Laws chapter 148, §26D, as amended); provided, however, that the chief engineer of the fire department shall allow the installation of approved monitored battery powered smoke detectors; and provided further, that in all common hallways, (as such term is defined by the General Laws chapter 148, §26D, as amended), of said residential buildings or structures, a series of interconnected approved primary powered smoke detectors shall be installed. The chief of the fire department shall enforce the provisions of this ordinance.

### **§ 3. Open Flame**

(a) No charcoal cooker, brazier, hibachi or grill or any gasoline or other flammable liquid or liquified petroleum gas-fire stove or similar device shall be ignited or used on the front porch, rear porch, or on the balconies of any multi-family residential building or similar occupancy. The owners or management of said buildings which have such porches or balconies shall notify their tenants in writing of this ordinance at the time the tenant initially occupies the apartment and from time to time thereafter as may be necessary to ensure compliance. The provisions of this section shall not apply to townhouses, row houses, or other multi-family dwellings where all dwelling units are side by side and none are superimposed above another.

(b) Any person who violates the provisions of this section shall be punished by a fine of not less than twenty (nor more than fifty) dollars for each violation.

### **§ 4. Malicious Bonfires**

(a) No person, on any public or private property in Worcester, shall willfully and maliciously set or attempt to set fire to, or burn or otherwise destroy or injure by burning, or cause to be burned or otherwise so destroy or injure, or aid, counsel or procure, the burning of any real or personal property.

(b) The placing or distribution of any flammable, explosive or combustible material or substance or any device in or against any real or personal property in an arrangement or preparation with intent eventually to willfully and maliciously set fire to or burn such real or personal property, or to procure the setting fire to or burning of such real or personal property shall constitute an attempt. Any person who violates the provisions of this section shall be punished by a fine of three hundred dollars for each violation.

### **§ 5. Fireworks**

(a) No persons shall sell, use or authorize the sale or use of fireworks or firecrackers within the city, except that persons having a permit issued under the authority of G.L. c. 148, §10A, may purchase fireworks and display them in accordance with the provisions of G.L., c. 148, and in compliance with the rules and regulations of the department of public safety.

(b) Any person who violates the provisions of this section shall be punished by a fine of three hundred dollars for each violation.

#### **§ 6. Inflammable Fluids**

(a) No person shall keep, store, use or sell inflammable fluids without a license or permit issued by the chief under the provisions of General Laws, chapter 148, §13 and acts in amendment thereof.

(b) The fees for such licenses shall be established by the chief acting under authority of G.L. c. 40, §22F, and shall be set by categories and capacities as established by the chief.

(c) The fees for permits issued by the chief engineer shall be equal to those established for licenses. The fees to be charged for registration of certificates shall be one-half of the fee established by this section.

#### **§ 7. Garages and Lubritoriums**

(a) No person shall operate any garage, auto repair garage, auto body facility, auto body or spray booth and lubritoriums without an annual license issued by the chief.

(b) The fees for such annual licenses shall be established by the chief acting under authority of G.L. c. 40, §22F, and shall be set by categories of facilities as established by the chief.

(c) Garages, auto repair garages, auto body facilities, auto body and spray booths and lubritoriums licensed in the city that wish to contain volatile inflammable fluids, to keep, use, or sell, shall apply to the chief for a separate license to keep, use, or sell the same and shall pay a fee for the license in accordance with the preceding section.

#### **§ 8. Light and Power Companies**

(a) Light and power companies shall provide and maintain suitable switches or cut-out boxes as directed by the chief inspector.

(b) All light and power companies shall send to all alarms of fire from boxes, designated by the chief engineer of the fire department, competent workers with suitable tools to remove and care for dangerous wires. Such personnel at such alarms shall immediately report to the officer in charge and shall be under his direction and control.

#### **§ 9. Communications Equipment**

(a) No person maintaining poles to which are attached wires or communications equipment of the city, shall remove or replace such poles without giving reasonable notice of the time and place thereof to the department of communications.

(b) No person shall place any wire over or above, or otherwise interfere with, the wires or communications equipment of the city without permission in writing first obtained from the department of communications.

(c) No person moving a building, under a permit therefor, shall interfere in any manner with the communications equipment of the city, unless by the permission and under the direction of the department of communications.

In case any such interference is permitted as above, all expense incurred in connection therewith shall be borne by the person causing such interference.

#### **§ 10. Interference with Firefighters**

(a) No person shall insult, menace, hinder, obstruct, oppose or without authority give an order to any officer or firefighter while on duty.

(b) No person shall drive any vehicle upon or over any hose, in use at any fire, placed in any street or highway except by order of an officer of the fire department.

(c) No person, except emergency personnel, shall enter into the area closed off at a fire, except with the permission of the fire officer in charge.

#### **§ 11. Removal of Vehicles**

At any time during fire fighting operations the officer of the fire department in charge at the scene of a fire, may remove or cause to be removed, any vehicle left unattended or parked in such a manner as to interfere with the fire fighting operations, such distances or places as necessary to enable fire fighting operations to proceed without interference.

#### **§ 12. Alarm Systems**

(a) For purposes of this section the following terms are defined:

(i) The term "alarm system" means an assembly of equipment and devices, or a single device such as a solid state unit which connects directly into a 110 volt AC line, arranged to signal the presence of a hazard involving fire, smoke or a related change in temperature requiring urgent attention and to which the fire department is expected to respond. Alarm systems on motor vehicles, and police alarm systems which are directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises are specifically excluded from the provisions of this section.

(ii) The term "alarm user" or "user" means any person on whose premises an alarm system is maintained within the city. Excluded from this definition are:

(a) municipal, county, state and federal agencies;

(b) central station personnel;

(c) persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of a possible fire. However, if such an alarm system employs an audible signal or a flashing light outside the premises, the user of such an alarm system shall be within the definition of "alarm user" and shall be subject to this ordinance.

(iii) The term "central station" means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.

(iv) The term "false alarm" means the activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or of his employees or agents, but excluding

activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes and similar conditions.

(v) The term "fire chief" means the chief engineer of the fire department or his or her designated representative.

(vi) The term "fire department" means the Worcester Fire Department, or any authorized agent thereof.

(vii) The term "public nuisance" means anything which annoys, injures or endangers the comfort, repose, health or safety of any person or of any community or neighborhood.

(b) The fire chief may promulgate such rules as may be necessary for the implementation of this section.

(c) Every alarm user shall submit to the fire chief the names, addresses and telephone numbers of the user and at least two other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises wherein the alarm system is installed. The list of names, addresses and telephone number of the responders must be kept current at all times by the alarm user and shall be submitted during the first month of each year.

(d) All alarm systems which use an audible bell or horn shall be equipped with an automatic shut off device which will deactivate the alarm system within ten minutes. All alarm users with an audible bell or horn must comply with this section within ninety days of the adoption of this ordinance.

(e) Any alarm system which fails to comply with the provisions of this section and emits a continuous and uninterrupted signal for more than thirty minutes which cannot be shutoff or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under this section, and which disturbs the peace, comfort or repose of a community, or a neighborhood of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous and uninterrupted signal, the fire chief shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under of this section in an effort to abate the nuisance. The fire chief shall record the time each complaint was made.

(f) In the event that the fire chief is unable to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under this section, or if the aforesaid persons cannot or will not curtail the audible signal being emitted by the alarm system, and if the fire chief is otherwise unable to abate the nuisance, he may direct a police officer or a firefighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate nuisance.

(g) After an entry upon property has been made in accordance with this section and the nuisance abated, the fire chief shall have the property secured, if necessary. The reasonable costs and expense of abating a nuisance in accordance with this section may be assessed to the alarm user, said assessment not to exceed fifty-dollars.

(h) No alarm system designed to transit emergency messages directly to the fire department shall be worked on, tested or demonstrated without obtaining permission from the fire department communications section.

Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the fire department. An unauthorized test constitutes a false alarm.

(i) The following acts and omissions shall constitute violations of this ordinance punishable by the fines as herein provided:

(i) An alarm user whose alarm system transmits or otherwise causes more than three false alarms in a six month period shall be assessed a fine according to the following scheduled:

a.	fourth false alarm	\$ 25.00
b.	fifth false alarm	\$ 50.00
c.	sixth false alarm	\$ 75.00
d.	seventh false alarm	\$100.00
e.	eighth false alarm	\$125.00
f.	ninth and any subsequent false alarm	\$150.00

(ii) An alarm user who fails to comply with any of the requirements of subsection (c) relative to control and curtailment of signals emitted by alarm systems shall be punishable by a fine of twenty-five dollars.

(iii) An alarm user who fails to comply with any of the requirements of subsection (h) relative to the testing of equipment shall be punished by a fine of twenty-five dollars.

### **§ 13. Fees for Certain Licenses, Permits and Services**

Every person shall pay to the fire department the fees and charges established by the chief under the authority of R.O. c. 2 §24 for the following items:

- Flammable liquid storage permit
- Gun powder permit
- Model rocket permit to sell
- Paint removal
- Tank removal
- Tank installation
- Tank registration
- Tank truck inspection
- Blasting permit
- Fireworks display permit
- Oil burner installation
- Christmas tree location permit
- Propane storage permit
- Flammable decorations permit
- Smoke detector inspections:
  - 1 and 2 family houses
  - 3, 4 and 5 family houses
  - 6 and above base
  - Additional cost per unit
- Smoke detector re-inspections:
  - per unit cost
- Copies of reports
- Quarterly inspections:
  - Nursing and rest homes, hotels, motels,
  - theaters, rooming house, group homes,

- hospitals, and day care homes and centers  
Cost per inspection:  
- Fumigation

**§ 14. Fire Alarm Service Fees**

(a) Every person utilizing the telephonic fire alarm service shall pay a service fee of three-hundred dollars annually. City buildings, including the city school department buildings, shall be exempt from payment of the service fee. The service fee payment shall be made to the city treasurer. The chief of the fire department shall thereupon issue a permit for use of the fire alarm facilities by the payee.

(b) A fee for a permit issued by the chief of the fire department for approval of plans and inspection of the installation of fire alarm systems in residential and commercial buildings shall be ten dollars. This subsection shall not apply to municipal, county, state or federal projects.

**§ 15 Priority Site Development Licenses & Permits - (Ordained April 29, 2008 - 9151)**

Any license or permit required hereunder in connection with the development of any Priority Development Site designated by the City Council pursuant to G.L. c. 43D shall be applied for and the application fee paid, if any, no later than thirty (30) days following submittal of a special permit or site plan review application. The appropriate authority shall normally take action on said application no later than twenty-one (21) days following the filing of a special permit or site plan approval decision with the City Clerk, subject to extension as per 400 CMR 2.09.

CHAPTER ELEVEN

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**§ 1. Licensing Authorities**

(a) The License Commission, chief of police and chief of the fire department and commissioner of public works ("licensing authorities"), are hereby vested with jurisdiction over the granting and revoking of licenses otherwise possessed by the city manager, including the licensing powers formerly exercised by the board of public welfare under G.L. c. 101, §33.

(b) No license shall be issued to any applicant who the applicable licensing authority has reason to believe is not of good moral character or has a reputation for using fraudulent business practices in his contractual relationships.

**LICENSE COMMISSION**

**§ 2. Entertainment - (Amended December 1, 1998 7524)**

(a) No person shall allow the use of any automatic amusement device without first receiving a license from the License Commission.

(b) No inn holder, common victualler, keeper of a tavern, or person owning, managing, or controlling any club, restaurant or other establishment required to be licensed under section twelve of chapter one hundred and thirty-eight or under section two, twenty-one A or twenty-one E of chapter one hundred and forty, and no person owning, managing, or controlling any concert, dance exhibition, cabaret or public show of any description to be conducted on any premises required to be licensed under the sections described above, shall, as a part of its usual business, offer to view, set up, set on foot, maintain or carry on a concert, dance exhibition, cabaret or public show of any description, unless and until a license therefore has been issued by the License Commission.

(c) No person owning, managing, or controlling any establishment not otherwise governed by section twelve of chapter one hundred and thirty-eight or under section two, twenty-one A or twenty-one E of chapter one hundred and forty, and no person owning, managing, or controlling any concert, dance exhibition, cabaret or public show of any description to be conducted on any premises not otherwise governed by the sections described above, shall, as a part of its usual business, offer to view, set up, set on foot, maintain or

carry on a concert, dance exhibition, cabaret or public show of any description, unless and until a license therefore has been issued by the License Commission.

(d) No person owning, operating, managing or controlling any theatrical exhibition, public show, public amusement or exhibition of any description, to which admission is obtained upon payment of money or upon the delivery of any valuable thing, or which, after free admission, amusement is furnished upon a deposit of money in a coin, card or currency controlled apparatus, shall conduct such entertainment unless and until a license therefore has been issued by the license commission.

(e) The License Commission after notice to the licensee and reasonable opportunity to be heard by them, may modify, suspend, revoke or cancel any license issued under this section upon satisfactory proof that the licensee, or the licensee's employees, agents or servant, has violated or permitted a violation of any condition thereof, or any law of the commonwealth. Nothing in this section shall diminish the authority of the Department of Public Health and Code Enforcement or the Chief of Police to pursue any other remedy available to them to address violations of city ordinances or laws of the commonwealth.

(f) The License Commission shall have the authority to adopt any rules and regulations it deems necessary to implement this section.

(g) The fee for each such license issued under this section shall be set in accordance with Chapter 2, S24 of these ordinances.

**§ 3. Street Performers (Repealed May 7, 1996 - See c. 12 §26(h) - 6986)**

**§ 4. Bowling Alleys & Billiard, Pool or Sippio Tables**

(a) No person shall keep or operate a billiard, pool or sippio table, or bowling alley for hire, gain or reward, unless a license is issued therefore by the License Commission, in accordance with General Laws, chapter 140, §177.

(b) The annual fee for any license issued under this section shall be thirty dollars for the first table or alley and fifteen dollars for each additional table or alley.

**§ 5. Coin Operated Pool Tables**

(a) No person shall keep a coin operated pool table for hire, gain or reward unless a license is issued therefor by the License Commission, in accordance with General Laws, chapter 140, §177.

(b) The annual fee for any license issued under this section shall be fifty dollars for each coin operated pool table.

**§ 6. Gasoline Stations**

No person shall operate a gasoline station, either full service or self service, unless a license is issued therefor by the License Commission and the applicant has obtained any other licenses required by this chapter. The License Commission may revoke gasoline licenses of stations that are closed for a period of thirty successive days, or are not offering services to the general

public for a period of thirty successive days or more, and shall notify the chief engineer of the fire department prior to any revocation.

## § 7. Newsracks

(a) The unregulated placement, installation and maintenance of newsracks on public ways presents a danger to the safety and welfare of persons using such ways, including pedestrians, the physically impaired, school children, persons entering and leaving buildings or vehicles, and to persons performing essential utility, traffic control, and emergency services and, as such, constitutes a public nuisance. The provisions contained in this section are in pursuance of and for the purpose of securing and promoting the public safety and general welfare of persons in the city, including their use of public ways.

(b) For purposes of this section the following words are defined as:

"distributor" - means the person responsible for placing and maintaining a newsrack in a public right-of-way.

"newsrack" - means any self-service or coin operated box, container, storage unit or other dispenser installed, used or maintained for the sale or distribution of printed published material of any nature. The use of the singular therein shall include the plural.

"roadway" - means that portion of a street or highway between the regularly established curb lines or that part improved or intended to be used for vehicular traffic.

"sidewalk" - means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"street" or "highway" - means the entire width between property lines of every way open to the use of the public for the purposes of vehicular or pedestrian travel.

"crosswalk" - means that portion of a roadway ordinarily included within the prolongation or connection of curb lines and property lines at intersections, or any portion of a roadway indicated for pedestrian crossing by lines on the road surface or by other markings or signs.

"curb return" - means the point at which the radius of the curb meets the lateral lines of a roadway.

"intersection" - means the area between the two curb return points on the radius of any two intersecting streets.

(c) No person shall place, install or maintain any self-service or coin operated box, container or other dispenser of goods, merchandise or commodities of any nature, except newsracks as provided herein, on any public way or sidewalk within the city.

(d) No distributor or person shall place, install or maintain any newsrack upon any street or highway without first having obtained a written newsrack location permit for same from the License Commission. Said permit shall remain in effect for as long as the licensee maintains, in accordance with the requirements of this section, a newsrack at the permitted location. The applicant shall submit with its application a schematic diagram showing the proposed location of the newsrack and all relevant physical features in the vicinity of the proposed location. The license application shall be approved if the diagram demonstrates a location consistent with the requirements of this section. The fee for a permit issued pursuant to this section shall be one dollar per newsrack location.

(e) Distributors may use one permit application for multiple newsrack locations. Where circumstances arise requiring additional newsracks, any valid permit holder may place such additional newsracks in accordance with the standards established by this section on the condition that the permit holder file an application for an amended permit within five business days after the first additional newsrack was placed. Immediately upon such deployment the licensee shall provide notice to the License Commission of the additional newsrack locations. Upon removal of any newsrack from a location approved and permitted under this section and in no event more than fifteen days thereafter, the distributor shall forward to the License Commission notice of such removal. The fee for the addition to or removal from the permit of a newsrack location shall be one dollar per newsrack location.

(f) All newsrack locations shall satisfy the following requirements:

(1) Newsracks shall be parallel to or perpendicular to the sidewalk and adjacent to either edge of the sidewalk.

(2) Newsracks shall not overhang or rest upon the curb or roadway.

(3) Newsracks shall not overhang or rest upon private property without the written consent of the owner of the property.

(4) Newsracks shall be physically secured by chains, anchor bolts or any other method to the ground or other permanent structure, but shall not be chained, bolted or otherwise attached to any:

(i) traffic control boxes,

(ii) any traffic control pole containing a pedestrian crosswalk button; or

(iii) any traffic signal pole or any other object, or otherwise located on the sidewalk adjacent to an intersection.

(5) Newsracks shall not exceed five feet in height, thirty inches in width, or two feet in depth.

(6) Unless otherwise prohibited by this section, newsracks may be chained or otherwise attached to one another; however, when joined or attached together, a group of newsracks shall not exceed ten feet in total width and a space of no less than thirty-six inches shall separate each group of newsracks so attached.

(7) Newsracks shall not be located within twenty feet of any fire hydrant or within five feet of any fire alarm or other emergency communication device, including public telephones.

(8) Newsracks shall not be located within five feet of any:

(i) marked crosswalk;

(ii) curb return at any intersection with an unmarked crosswalk;

(iii) public or private driveway; or

(iv) handicapped accessible curb cut; except that, where a pre-existing pole or other lawful obstruction is located within the five feet area described above and, if otherwise permissible under this section, a newsrack may be located within such five feet area so long as the placement of a newsrack at such a location does not further reduce the distance between the pre-existing pole or other lawful obstruction and the items described in subsections (i) through (iv) above.

(9) Newsracks shall not be located within twenty feet of any designated school crosswalks or school bus stops or on any side of a street adjacent to any private or public school property where signs are erected giving notice of prohibited vehicular parking in such areas.

(10) Newsracks shall not be located on a sidewalk in an area adjacent to a bus stop - prohibited parking zone. Where two signs are utilized to indicate a bus stop, no newsrack shall be located between the two signs, unless there exists within this area a pole or other lawful obstruction and the addition of a newsrack to this area does not reduce the clear space to less than five feet. Where one sign is utilized to indicate a bus stop, no newsrack shall be located within ten feet of such sign.

(11) No newsrack shall be located within ten feet of a sign designating a taxi stand or handicapped or disabled veteran parking space.

(g) Each newsrack location permit issued by the License Commission shall contain the following conditions:

(1) Every distributor receiving a permit hereunder shall execute a written agreement to indemnify and hold harmless the city against all damages or cost by reason of any claim for damages, or any process, either civil or criminal, on account of said placement, installation or maintenance or any injury to any person or damage to any property occasioned thereby; provided, however, that such obligation to indemnify and hold harmless the city shall not extend to any damages, or process, either civil or criminal, or to any injury to any person or damage to any property resulting from the acts or the failure to act, of a third party. The distributor shall annually provide a surety company bond or insurance policy in an amount not to exceed one hundred thousand dollars per claimant with a per occurrence maximum of three hundred thousand dollars in such

form and with such companies as shall be reasonably and customarily acceptable to the commissioner of public works and the city solicitor.

(2) No newsracks shall be used for sale, offer for sale, advertisement or display of any publication which is prohibited by the laws of the Commonwealth from sale or distribution to minors unless such newsrack is maintained and controlled in the presence of an attendant who shall be an adult and who has authorization and ability to prevent the purchase of such publication by a minor.

(3) Each newsrack shall be equipped with a coin return mechanism in good working order, so as to permit a person inserting a coin to secure an immediate refund in the event the newspaper or news periodical offered for sale therein is not received by that person for any reason.

(4) Each newsrack shall have affixed to it, in a permanent manner, a visible, legible notice in substantially the following form:

IN CASE OF MALFUNCTION OF THIS NEWSRACK OR  
AN ACCIDENT INVOLVING IT OR TO SECURE A  
REFUND THE DISTRIBUTOR WHO HAS PLACED AND  
MAINTAINED IT IS:

Name of Distributor  
Number, Street or P.O. Box  
City, State, Zip Code  
Telephone number (including area code)

(5) No distributor who places or maintains a newsrack on the sidewalk of the city of Worcester shall permit such newsrack to remain unused for a period of one month or more.

(6) Each newsrack shall be maintained in a clean and neat condition and in good repair at all times.

(7) No newsrack shall be used for advertising signs or publicity purposes, other than that dealing with the display, sale or purchase of the goods, merchandise or services offered for sale therein by the publisher.

(h) (1) Any newsrack, found in violation of any of the provisions of this section, may be removed by the city in accordance with the provisions contained herein.

(2) Prior to removal, the city shall give written notice to the distributor placing or maintaining the newsrack on the sidewalk that the newsrack is in violation of this ordinance and that the violation must be corrected within a specified time (not to exceed fifteen days) and that, if not corrected, the violation carries a \$200.00 fine and the newsrack may be removed by the city and disposed of pursuant to this section.

(3) The notice shall be mailed, by certified mail, to the distributor, at the address indicated on the identification placed on the newsrack. If there is no such identification, a copy of the notice shall be firmly attached to the newsrack.

(4) Any person having an interest in the newsrack may object to its removal if, before expiration of the period specified in the notice, a request for a hearing is filed with the License Commission. Such hearing, if requested, shall be conducted by the License Commission. Any person may present evidence at the hearing. At the conclusion of the hearing, the License Commission shall determine whether removal of the newsrack is justified under the provisions of this ordinance and shall make any order necessary and appropriate in connection with such determination.

(5) After a newsrack has been removed pursuant to the provisions of this section, the city may dispose of the newsrack by destruction of the newsrack, by sale at public auction or by appropriation to use by the city, whichever is most appropriate under the circumstances; provided, however, that the owner of the newsrack may, within thirty days after its removal, redeem the newsrack by paying to the city all costs incurred by the city in connection with the removal and storage of the newsrack. At or before the time of removal, the city shall give written notice to the owner of the newsrack of his right to redeem. This notice shall be given in the same manner as provided in sub-section (3) of this section.

(i) Any distributor or person placing or maintaining a newsrack on a public way or on the public property of the city without a permit under this section or the authorization of the officer in control of such public property shall be assessed a non-criminal penalty of two-hundred dollars.

(j) Any distributor or person holding a license under this section who fails to correct a violation in accordance with and within the time specified by the notice sent pursuant to sub-section (f) of this section shall be assessed a non-criminal penalty of two-hundred dollars.

(k) Any distributor or person who knowingly submits false or misleading information on any permit application shall be assessed a non-criminal penalty of two-hundred dollars.

## **§ 8. Public Parking Lots**

(a) No person shall operate a public parking lot unless a license is issued therefor by the License Commission of the city.

(b) A public parking lot is any space, lot, parcel of land or yard use in whole or in part for the parking of three or more motor vehicles and for which a fee is charged. Additionally, any space, lot, parcel of land or yard used or intended to be used for the parking of motor vehicles of the customers or patrons of a business or commercial establishment, whether such facilities are intended for the customers or patrons of the party maintaining the same or for the accommodation of the customers or patrons of another business or commercial establishment, shall be considered a public parking lot regardless of whether a fee is charge.

(c) The fee for a license for any space, lot, parcel or yard, used in whole or in part for parking three or more motor vehicles and where a parking fee is charged therefore, shall be ten dollars plus two dollars for each parking space in excess of four, but not in excess of one hundred, and one dollar for each parking space in excess of one hundred. The fee for a license for any space, lot, parcel or yard having parking facilities intended for the accommodation of the customers or patrons of any business, whether said

facilities are intended for the accommodation of the customers or patrons of the business of the party maintaining the same or for the accommodation of the customers or patrons of another business, where there is no parking fee charged, shall be ten dollars.

(d) No person shall operate a public parking lot under any license granted under this section unless he shall cover the lot with such substance as the License Commission shall approve to prevent effectively any nuisance from dust, except that lots temporarily used as parking lots shall be exempt from this requirement.

(e) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the city manager may waive the parking lot license fee on those parking lots owned and operated by the Worcester Redevelopment Authority.

(f) No person shall operate a public parking lot under any license granted under this section unless such lot shall conform to the conditions imposed upon the license by the License Commission. Such conditions include but are not limited to the regulation of: hours of operation; days of operation; notification of parking lot patrons of the towing policy, including towing fees and payment practices; capacity; and security, including adequacy of lighting. \*

\*Ordained August 18, 1998 - 7489

(g) The License Commission may from time to time promulgate rules and regulations for the administration and enforcement of this section.\*

\* Ordained August 18, 1998 - 7489

(h) In addition to any other penalty which may be imposed by the enforcing persons for a violation of this section, the License Commission may, after notice to the licensee and reasonable opportunity to be heard by them, modify, suspend, cancel, revoke or declare forfeited any license granted under this section, or may refuse to issue, transfer, renew or reissue a license under this section. No portion of the fee paid for a public parking lot license will be refunded upon adverse action by the License Commission.\*

\*Ordained August 18, 1998 - 7489

#### § 8A. Shooting Gallery Licenses - (Ordained December 14, 1999 - 7774)

(a) No person shall operate a shooting gallery unless a license is issued therefor by the license Commission in accordance with Mass. Gen. L. ch. 140, sec. 56A. The License Commission may grant, suspend and revoke at pleasure a license to conduct a shooting gallery upon such terms and conditions as it deems proper.

(b) The term "shooting gallery" shall mean a public resort equipped with appliances for target shooting, whether or not such public resort is incorporated under the laws of the commonwealth for the possession, storage or use of large or non-large capacity weapons or ammunition therefor.

(c) All applications for licenses under this provision shall be made on a form or forms to be prescribed by the License Commission and shall include a sworn statement by the applicant giving the names and addresses of all person having a direct or indirect beneficial interest in the license. Every

applicant shall be at least twenty-one (21) years of age, of good character as determined by the License Commission, and the holder of a valid class A firearms license issued pursuant to Mass. Gen. L. ch. 140, sec. 131.

(d) The fee for each original license for a shooting gallery shall be one hundred twenty (\$120.00) dollars. The fee for an annual license renewal shall be one hundred five (\$105.00) dollars. No license shall be transferred without the prior consent of the License Commission and all licenses shall be posted on the licensed premises so that the same may be easily observed.

(e) Every license issued under this section shall expire on May first following the date of issue, unless sooner revoked.

(f) No license shall be issued under this provision until a bond and insurance in amounts set forth hereinafter are provided.

(i) No license shall be issued under this provision until a bond, approved by the city treasurer, is filed with the city clerk. Said bond shall be in the sum of five thousand (\$5,000.00) dollars to secure the payment of any injuries or damages that may result from the operation of a licensed shooting gallery.

(g) Licensed premises shall be closed between the hours of eleven o'clock post meridian (11:00 P.M.) and ten o'clock ante meridian (10:00 A.M.) every day. All persons shall be off the premise by 11:30 P.M. The licensee, facility manager or employees of the licensee may be on the premises after business hours but only if they are actively engaged in cleaning, making repairs to, or providing security for such premises, or opening or closing premises for the business day. No other persons, friends, or relatives may be on the premises with the licensee, facility manager, or licensee's employees during the hours when the public is excluded from the premises.

(h) **No person shall engage in target shooting or enter a live fire area unless such person holds a valid firearm identification card or firearms license issued under Massachusetts General Law, chapter 140.\***

**\*Amended March 13, 2007 - 8988**

(i) The Licensee shall be responsible for determining the age of patrons and ensuring compliance with this section.

(j) Licensee shall ensure adherence to the following rules.

(i) No targets shall depict human images, human effigies, or human silhouettes, unless said target is used by public safety personnel performing in line with their official duties.

(ii) All persons shall wear eye and ear protection at all times while in the live fire area.

(iii) No person shall fire other than in designated fire lanes. Any person aiming or pointing a loaded or unloaded weapon at another person or object outside of the firing range lane shall be immediately expelled from the premise.

(iv) No person shall exit the firing range area until and unless his firearm is completely unloaded.

- (v) The Licensee shall ensure that all weapons not in use shall be safely stored and locked and shall only be shown or handled by legally authorized persons in the presence of an under the direct supervision of an employee or agent of Licensee who holds a valid class A firearms license.
- (vi) The licensed premise shall be alarmed in a manner acceptable to the License Commission and the alarm system shall be activated during all non-business hours.
- (vii) After business hours, all weapons shall be stored in a locked and alarmed vault.

(k) Each licensee shall designate, immediately, in writing, a full-time facility manager, satisfactory to the License Commission, who shall have authority and control of the licensed premises. Said facility manager shall be a suitable person as determined by the License Commission and shall be the current holder of a valid class A firearms license issued under Mass. Gen. L. ch. 140, sec. 131. The License Commission shall be notified immediately, in no event more than twenty-four hours, after the removal or vacancy of an approved facility manager. Licensee shall also maintain a current list of all employees and shall have said list available at all times for inspection by a police officer or any authorized agent of the License Commission.

(l) The licensee shall be responsible for ensuring that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Licensee shall be held responsible for safety infractions and legal violations occurring on the licensed premises. The Licensee shall report any violation of state or federal law or these rules and regulations to the Worcester Police Department within a reasonable time but in no event more than twelve (12) hours after the occurrence of said violation.

(m) Licensee shall keep all entrance and exit doorways in a closed position at all times when not actively being used by persons to enter or exit the establishment. Licensee shall provide adequate lighting within and outside the premises. Licensee shall not alter the premises without the prior approval of the License Commission.

(n) The licensed premises shall be subject to inspection at all times by the police or authorized agents of the License Commission.

(o) No person shall operate a shooting gallery under any license granted under this section unless such shooting gallery conforms to the conditions imposed by the License Commission. Such conditions include but are not limited to ensuring adequate security for the premises, including the firearms contained thereon.

(p) The License Commission may from time to time promulgate rules and regulations for the administration and enforcement of this section.

(q) Any person operating a shooting gallery without a license issued under this section or in violation of any laws, or rules or regulations, or condition imposed by the License Commission shall be assessed a fine of one hundred (\$100.00) dollars. Each day of unlicensed operation shall constitute a separate violation.

(r) In addition to any other penalty that may be imposed by the enforcing persons for a violation of this section, any federal, state or local rules or

regulation or any license condition imposed by the License Commission, the Commission may, after notice to the licensee and a reasonable opportunity to be heard by them, modify, suspend, cancel, or otherwise revoke any license granted under this section, or may refuse to issue, renew or reissue a license under this section. The License Commission shall refund no portion of the fee paid for a shooting gallery license upon adverse action.

#### **CHIEF OF POLICE**

##### **§ 9. Firearm Sales**

(a) No person shall sell any firearm without a license issued by the chief of police pursuant to the provisions of G.L. c. 140, §122. The fee shall be twenty dollars per year. Such licenses shall be issued consistent with the provisions of G.L. c. 140, §§ 121 to 131I.

(b) The penalty for each violation of this section shall be three hundred dollars.

##### **§ 10. Ammunition Sales**

(a) No person shall sell any ammunition for any firearm without a license issued by the chief of police pursuant to the provisions of G.L. c. 140, §122B. The fee shall be twenty-five dollars. The fee for a renewal license shall be one dollar per year.

(b) The penalty for each violation of this section shall be three-hundred dollars.

##### **§ 11. Fortune Tellers**

(a) No person shall tell fortunes for money unless a license is issued therefor by the chief of police in accordance with General Laws, chapter 140, §185I.

(b) The fee for such license shall be ten dollars.

##### **§ 12. Second-Hand Motor Vehicle Sales**

(a) The chief of police may issue either a class 1, class 2 or class 3 license for the sale of second-hand motor vehicles, whichever is applicable under the provisions of General Laws, chapter 140, §§ 57 to 59.

(b) The annual fee to be charged for the license in each class shall be established by the License Commission, in accordance with General Laws, chapter 140, §59.

##### **§ 13. Solicitors & Canvassers**

(a) It shall be unlawful for any solicitor or canvasser as defined in this section to engage in such business within the city without first obtaining a license therefor in compliance with the provision of this section. The provisions of this section shall not apply to any person engaged in the pursuit of soliciting for charitable, benevolent, fraternal, religious or political activities, nor to any person exempted under chapter 101 of the General Laws, or to any person duly licensed under chapter 101 of the General Laws, or to any person exempted by any other General Law, nor shall this section be construed

to prevent route salesperson or other persons having established customers to whom they make periodic deliveries from calling upon such customers or from making calls upon prospective customers to solicit an order for future periodic route deliveries.

(b) A "solicitor" or "canvasser" is defined as any person who, for himself or for another person, firm or corporation, travels by foot, automobile, or any other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to lease or to take orders for retail sale of goods, wares, merchandise, or services, including, without limiting, the selling, distributing, exposing for sale or soliciting orders for magazines, books, periodicals or other articles of a commercial nature, the contracting of all home improvements, or for services to be performed in the future whether or not such individual has, carries or exposes for retail sale a sample of the subject of such sale or whether he is collecting advance payment of such retail sales.

(c) Applicants for a license shall file with the chief of police, on a form issued by the chief of police, a written application signed under the penalties of perjury, containing the following information:

- (1) name of applicant
- (2) address of applicant (local and permanent address)
- (3) applicant's height, weight, eye and hair color
- (4) applicant's social security number
- (5) the length of time for which the right to do business is desired
- (6) a brief description of the nature of the business and the goods to be sold
- (7) the name and home address of the applicant's employer. If self-employed, it shall so state
- (8) a photograph of the applicant which picture shall be submitted by the applicant and be 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner
- (9) a statement as to whether or not the applicant has been convicted of any crime or misdemeanor, except violations of the motor vehicle law, and the nature of the offense
- (10) if operating a motor vehicle; the year, make, model, motor number, registration number, state of registration, vehicle's owner and address.

(d) At the time of filing the application, each applicant shall pay a fee of ten dollars to the police department.

(e) Upon receipt of the application, an investigation of the applicant's reputation as to morals and integrity shall be conducted by the police department. After an investigation of the applicant's reputation for honesty and lack of fraudulent business practices in his contractual relationships with others, the chief of police shall approve or disapprove the application and notify the applicant of the decision. In the event the application is approved, a license shall issue. In the event the application is disapproved, the applicant shall be provided with a statement in writing of the reasons therefor.

(f) A license when issued shall contain the signature of the issuing officer and shall show the name, address and photograph of the licensee, the date of issuance and the length of time the license shall be operative, as well as the license number. The police department shall keep a record of all licenses issued for a period of six years. Solicitors and canvassers when engaged in the business of soliciting or canvassing are required to display an identifying badge issued by the police department, by wearing said badge on an

outer garment. The identifying badge shall contain the same information previously listed in this paragraph. Every individual solicitor or canvasser shall possess an individual license.

(g) The police officers of the city shall enforce this section and shall arrest and prosecute every individual whom they may have reason to believe guilty of violation of any provision of this chapter.

(h) No license issued under this section shall be transferred without the prior written approval of the chief of police.

(i) Each license issued under the provisions of this section shall continue in force from the date of its issue until the thirty-first day of December following, unless sooner revoked.

(j) A license issued under the provisions of this section may be renewed by the chief of police. An applicant requesting a renewal of a license must apply in person for such license renewal, and provide such material as required by the chief of police.

(k) No solicitor or canvasser, licensed or exempted from license, may misrepresent, in any manner, the buyer's right to cancel as stipulated by chapter 255D of the General Laws.

(l) No solicitor or canvasser, licensed or exempted from licensing, may use any plan, scheme or ruse which misrepresents the true status or mission of the person making the call in order to gain admission to a prospective buyer's home, office or other establishment with the purpose of making a sale of consumer goods or services.

(m) Any person violating any provision of this sections shall, upon conviction thereof, be punished by a fine not to exceed fifty dollars for each and every offense.

**§13A. Tag Day Permits - (Ordained October 1, 1996 - 7104)**

(a) Notwithstanding any contrary provision of the Revised Ordinances, the chief of police may issue a permit to any nonprofit charitable organization to allow agents of such an organization to solicit contributions from motorists in vehicles stopped on any public way by reason of a mechanized traffic signal; provided, that:

**(1) every such permit shall specify a particular calendar day and the particular hours of such day, which shall not exceed four consecutive hours between sunrise and sunset, during which solicitation may be conducted; and, \***

**\*Amended May 2, 2000 - 7893**

**(2) no such permit shall be issued to any nonprofit charitable organization which has conducted any similar solicitation event in the city within three hundred sixty five days preceding the day upon which the solicitation is to be conducted; and,**

**(3) each tag day permit shall list the specific intersections at which the organization is authorized to solicit and no solicitation shall be conducted at any intersection not so specified; and, \***

**\*Amended May 2, 2000 - 7893**

(4) each such permit shall be issued on the condition that the organization obtaining the permit shall indemnify and hold the city harmless without regard to any degree of culpability assessed against the city from any claims which are filed against the city as a result of the activities of the organization and its agents in the conduct of such solicitation day; and,

(5) each person engaged in such solicitation shall:

1. be age sixteen years of age or older; and,
2. display identification specifying the name of the individual, the organization named in the permit and the charitable purpose for which contributions are sought; and,
3. conduct such solicitation only from sidewalks or traffic islands and shall not stand upon any traveled portion of any public way except to receive a contribution offered by a motorist.

(6) The name of a representative of the organization seeking authorization to solicit shall be listed on the tag day permit and said representative shall be present at the specific intersection listed on the tag day permit during the authorized hours of solicitation to control and supervise persons soliciting or the organization. Said representative shall be twenty-one years of age or older. When solicitation is permitted at more than one specific intersection, designated supervisors, twenty-one years of age or over, shall be listed on the tag day permit and at least one such supervisor shall be present at each intersection listed on the tag day permit during the authorized hours of solicitation to control and supervise person soliciting for the organization.\*

**\*Ordained May 2, 2000 - 7893**

(b) The chief may impose such other terms or conditions as he or she may from time to time determine are reasonable to advance the public safety.

(c) Any permit issued under this section may be revoked or suspended without notice by any police officer acting under authority of the chief of police.

(d) Any person soliciting contributions in any public way either without the permit required by this section, or in violation of any provision of this ordinance, shall be punished by a fine of fifty dollars for each offense. Any person who solicits contributions on any public way of the city in the company of any person under the age of sixteen shall be punished by a fine of one hundred dollars for each offense.

**§ 14. Beano License**

Every person applying for a beano license issued under the authority of G.L. c. 10, §38, shall pay a non-refundable processing fee of twenty-five dollars. Such fee shall be paid at the time the application is submitted and shall be in addition to any other fee required by state law.

## **§ 15. Taxicabs**

(a) The chief of police of the city may from time to time grant licenses upon such terms and to such persons as he may deem expedient, provided such persons shall have been residents of the city for a period of not less than six months next preceding their application for the license, to set up, employ, use or drive taxicabs for the conveyance of persons for hire. No person shall set up, employ, use or drive such vehicle for the purposes aforesaid without such license, nor shall the owner of such vehicle or the proprietor of the business in which such vehicle is being used allow any person not licensed as aforesaid to drive or operate such vehicle.

- (b) For every license granted under these provisions of this section there shall be paid a fee of twenty-five dollars. For every license granted to the owner of a taxicab there shall be paid a fee of seventy-five dollars. For every license granted to the driver of a taxicab or livery there shall be paid
- (c) a fee of five dollars.

## **§ 16. Taxicab Regulations**

Every person licensed under the provisions of §15 above shall at all times observe and comply with the following regulations:

(a) each licensed vehicle shall be conspicuously marked with the number assigned to it by the chief of police in figures not less than one and a half inches in size, and of such color as to be readily seen and read, and the names of the owner and the driver and the number of the vehicle, together with the rates of fare duly established, shall be conspicuously posted on a printed card in every such vehicle.

(b) No owner, driver or other person having charge of any taxicab shall stand or wait for employment with such vehicle, in any street, square, lane, court, or public place within the city, other than the stands assigned to such vehicles by the city council.

(c) No owner, driver or other person having charge of any taxicab shall demand or receive any more than the price or rate of fare established by this chapter or by the License Commission under the provisions as mentioned in the above paragraph, under penalty of forfeiting his license in addition to the general penalty provided for in these Revised Ordinances.

(d) For unreasonably refusing to carry any passenger to any point within the city, the owner, driver or other person having charge of a taxicab shall be subject to the penalty provided for in chapter 1 of these Revised Ordinances.

(e) Every owner, driver or other person having charge of any taxicab shall at all times, when driving or waiting for employment, wear on the upper left front of his or her chest a badge as provided by the chief of police.

(f) No driver of a taxicab or motor vehicle equipped with a taximeter while carrying passengers or under employment shall display the signal affixed to such taximeter so as to denote that such vehicle is not employed, or in such a position as to denote that he or she is employed at a rate of fare in excess of that to which he is entitled under this chapter.

(g) No person shall use or permit to be used or drive for hire a public taxicab or motor vehicle equipped with a taximeter not having the case sealed and the cover and gear thereof intact.

(h) The chief of police may establish additional rules and regulations for the issuance of a license or medallion to any taxicab owner and to any taxicab driver, and for the regulation of taxicab service in the city. Such rules and regulations issued by the chief of police shall become effective after filing with the city clerk. All taxicab service in the city shall conform to the rules and regulations issued by the chief of police and on file with the city clerk. Any violation of the rules and regulations issued by the chief of police for taxicab service shall be deemed a violation of these ordinances.\*

\*Ordained October 18, 2005 - 8696

(i) After notice and hearing the chief of police may suspend or revoke any license or taxicab medallion issued to any taxicab owner or to any taxicab driver for: (i) violation of any criminal law after issuance of such license or taxicab medallion which renders the licensee unfit; (ii) failure to pay or lawfully contest any fine, penalty or ticket issued under pursuant to subsection (h) of these ordinances or to pay any taxes assessed to the licensee or taxicab owner; or (iii) any violation of the rules and regulations established pursuant to subsection (h) which constitutes a danger to the health or safety of the public in the exercise of any license or medallion issued under these ordinances.

\*Ordained October 18, 2005 - 8696

**§ 17. Liveries - (Amended October 18, 2005 - 8697)**

(a) Definitions: (i) Livery Service: providing transportation for hire for a prearranged fare on a prearranged basis by means of a livery vehicle which does not contain a rate meter and does not charge for service based on miles traveled if the trip is less than twenty-five (25) miles. Excluded from this definition are services provided by a licensed taxicab and by a common carrier licensed under the provisions of c.159A of the general laws; (ii) Livery Operator: a person or entity which owns or has legal control of a livery vehicle and provides livery service by means of such vehicle; (iii) Livery Vehicle: a motor vehicle used to provide livery service and displaying a livery registration number plate issued by the registry of motor vehicles; (iv) Livery Vehicle Driver: any person driving a livery vehicle while providing livery service.

(b) The chief of police may grant a license to any livery operator if the chief finds, after investigation including but not limited to any criminal or sexual offender registry information, that the livery operator is suitable to hold such license. The fee for the issuance of such license to a livery operator shall be one hundred dollars for each livery service vehicle licensed.

(c) The chief of police may grant a license to any livery vehicle driver if the chief finds, after investigation including but not limited to any criminal or sexual offender registry information, that the livery vehicle driver is suitable to hold such license. The fee for the issuance of such license to a livery vehicle driver shall be five dollars.

(d) No person shall provide livery service in the city until the livery operator has obtained from the chief of police a license to operate such livery service.

(e) No person shall drive a livery vehicle in the city until that person has obtained from the chief of police a license to drive such livery service vehicle.

(f) The chief of police may establish rules and regulations for the issuance of a license to any livery service operator and to any livery service driver, and for the regulation of livery service in the city. Such rules and regulations issued by the chief of police shall become effective after filing with the city clerk. All livery service in the city shall conform to the rules and regulations issued by the chief of police and on file with the city clerk. Any violation of the rules and regulations issued by the chief of police for livery service shall be deemed a violation of these ordinances.

(g) After notice and hearing the chief of police may suspend or revoke any license issued to any livery service operator or to any livery service driver for: (i) violation of any criminal law after issuance of such license which renders the licensee unfit; (ii) failure to pay or lawfully contest any fine, penalty or ticket issued under pursuant to subsection (f) of these ordinances or to pay any taxes assessed to the licensee; or (iii) any violation of the rules and regulations established pursuant to subsection (f) which constitutes a danger to the health or safety of the public in the exercise of any license issued under these ordinances.

#### **§ 18. Transportation of Goods**

(a) The chief of police of the city may from time to time grant licenses to such persons and upon such terms as it may deem expedient, to employ or use any truck, wagon or other vehicle which may be necessary for the conveyance from place to place, for hire, of any goods, wares, furniture, merchandise or rubbish, and the chief of police may designate the public stand or stands which such vehicles may occupy, and no person shall use any of the vehicles mentioned in this section for the purposes herein specified without a license for each vehicle.

(b) Every person licensed under this section shall have placed upon the outside and upon each side of the vehicle he or she may use the name of the owner and the number of the license, in plain, legible letters and figures not less than one and a half inches in size, so that the same may be distinctly seen.

#### **§ 19. Solicitation of Passengers**

No person, except holders of taxicab licenses issued under §15 above, shall solicit passengers on public ways or from public taxicab stands; nor shall operate any vehicle over any route in such manner that it would result in conflict with any common carrier licensed under the provision of G.L. c. 159A.

A violation of any of the terms of this section by any person holding a livery license under this chapter shall constitute grounds for revocation of such license under §17 above.

#### **§ 20. Behavior of Licensees**

No person while engaged in the operation of a taxicab or livery shall behave himself in a rude and disorderly manner or use any indecent, profane or insulting language towards any person.

#### **§ 21. License Valid Only for Person or Vehicle for Which Issued**

No license granted under §§ 15 - 18 of this chapter shall apply to any vehicle, owner or driver, except the particular one designated therein by its number or otherwise made certain.

#### **§ 22. Expiration and Transferability of Licenses**

(a) All licenses granted under the provisions of §§ 15 - 18 of this chapter shall expire on the first day of May next after the date thereof, and no license shall be sold, assigned or transferred without the consent of the chief of police, endorsed thereon by the chief of police, and the payment of one dollar.

(b) Every licensed taxicab shall have affixed thereto a metal medallion of such size, design and at such location as the chief of police may direct.

(c) The number of such licenses and medallions shall be limited to one hundred and eight, including those which have expired for less than one year, and may in accordance with public need be increased or decreased by the city council. **Notwithstanding the foregoing, the chief of police may grant two additional taxicab licenses and medallions on the condition that the licensee holding each such license shall operate said taxicabs in compliance with taxicab handicapped accessibility regulations adopted by the city commission on disability. The chief of police may grant such licenses only to such persons who shall otherwise qualify for such a license and medallion under this ordinance and who shall comply with the laws, ordinances, regulations, license conditions and terms otherwise applicable to the holder of a taxicab license and medallion issued under these ordinances. \***

**\*Ordained March 22, 2005 - 8628**

(d) Subject to the approval of the chief of police such licenses and medallions while in effect or within one year after the expiration thereof, as of right, may be assigned or transferred unless it appears to the chief of police, after a hearing thereon that the chief of police has good cause in accordance with the Rules and Regulations of the chief of police for ownership or operation of taxis and liveries and provisions of law to refuse such assignment or transfer.

#### **§ 23. Suspension or Revocation of License**

Any license granted under the provisions §§ 15 - 18 of this chapter may be suspended without hearing for a period not to exceed fifteen days and may be revoked by the License Commission for cause after notice to the licensee and a reasonable opportunity for the licensee to be heard.

#### **§ 24. Minors as Drivers**

No taxicab or other vehicle mentioned in this chapter shall be driven by a minor unless he or she is specially licensed.

#### **§ 25. Manner of Parking**

All drivers, owners or persons having the care of any such vehicles as are described in §§ 17 - 20, while at the stands designated by the chief of police, shall place their respective vehicles next to the sidewalk, in a single line so as to leave sufficient space for travelers along the streets and passageways, and so as not to obstruct or encumber the crossing places of any street.

**LICENSING PROCEDURES - PAYMENT OF ANY OUTSTANDING LOCAL  
TAXES, FEES, ASSESSMENTS, BETTERMENTS,  
OR OTHER CHARGES**

**§ 26. Definitions**

"licensing authority" - each department, board, commission or division that issues licenses or permits including renewal and transfers.

"party" - any person, corporation, or business enterprise that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges, or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments, or any other municipal charges, for not less than twelve months.

**§ 27. Delinquent List**

(a) Any and all municipal officials responsible for all records of all municipal taxes, assessments, betterments and other municipal charges shall furnish annually to the city treasurer a listing of any persons, corporations, or business enterprises (hereinafter referred to as "party") that have neglected or refused to pay any local taxes, fees, assessments, betterments other municipal charges for a twelve month period.

(b) The city treasurer shall compile a master list containing the name and address of any party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period and that has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board. The master list shall also contain both the amount owed and a description of the local taxes, fees, assessments, betterments or other municipal charges which the party has failed or refused to pay.

(c) The city treasurer shall annually furnish to each licensing authority of the city a copy of the master list.

(d) Upon receipt of the master list the licensing authority may, in accordance with the terms of this article, deny, revoke or suspend any license or permit, including renewals and transfer of the same, of any party whose name appears on the master list or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the city treasurer.

**§ 28. Application Requirements**

(a) Any party seeking a license or permit from a licensing authority, shall submit, at the time of such application, a certificate of compliance with the Revised Ordinances governing revenue collection (hereinafter "certification") on a form approved by the city manager.

(b) These certification forms shall be available from the licensing authority.

(c) Failure to include a fully completed certification form with the application or request to the licensing authority shall result in such application being deemed incomplete and not eligible for further processing by the licensing authority.

### **§ 29. Notice and Hearing**

(a) The licensing authority shall not deny, revoke or suspend any license or permit, unless it first gives written notice to the party and the city treasurer and unless the licensing authority holds a hearing concerning the denial, revocation or suspension. The hearing shall be held no sooner than fourteen days from the date of the notice.

(b) The notice shall be mailed to the party and shall contain the time, place and date of the hearing. The notice shall also inform the party of the purpose of the hearing and shall list any and all taxes, fees, assessments, betterments or other municipal charges applicable to the party which are contained on the master list.

(c) If the licensing authority determines that (1) any taxes, fees, assessments, betterments or other municipal charges contained on the master list have not been paid; and (2) that the party has not filed in good faith an application for an abatement of the amount owed, or (3) that the party does not have a pending petition before the Appellate Tax Board, the licensing authority may deny, revoke or suspend any license or permit or refuse to transfer the same.

(d) Except as provided in §32 below, the licensing authority shall give the party an opportunity at the hearing to enter a payment agreement.

(e) The master list provided by the city treasurer shall be prima facie evidence to support a denial, revocation or suspension of a license or permit to any party whose name appears on the master list.

(f) The city treasurer, or his designee, shall have the right to intervene in any hearing conducted concerning the denial, revocation and suspension of any license or permit.

(g) Any findings made by the licensing authority with respect to the denial, revocation or suspension shall be made only for the purpose of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for an appeal from such permit or license denial, revocation or suspension.

### **§ 30. Payment Agreement**

(a) The licensing authority shall give the party an opportunity to enter into a payment agreement under such terms and conditions as are satisfactory to the licensing authority and the city treasurer.

(b) Upon entering into a payment agreement the licensing authority shall issue a certificate indicating any agreed upon limitations to the license or permit. The validity of any such license or permit shall be conditioned upon satisfactory compliance with the agreement.

(c) Failure to comply with the payment agreement shall be grounds for suspension or revocation of the party's license or permit, provided that the holder be given notice and a hearing by the licensing authority. Notwithstanding §31 above, in no event shall any hearing concerning a failure to comply with a payment agreement entitle the party to an additional opportunity to enter into a new payment agreement.

### **§ 31. Effect of Denial or Suspension**

Any license or permit denied, suspended or revoked pursuant to §27 of this chapter shall not be renewed until the license authority receives a certificate issued by the city treasurer indicating that all local taxes, fees, assessments, betterments or other municipal charges payable to the city have been paid as of the date of the issuance of the certificate.

### **§ 32. Waiver of Denial, Suspension or Revocation**

The city council may waive any denial, suspension or revocation of a permit or license if it finds that there is no direct or indirect business interest by the party or members of the party's immediate family, as defined in section one of chapter 268A of the General Laws, in the business or activity conducted in or on said property.

### **§ 33. Exempted Licenses and Permits**

The provisions of §27 above shall not apply to the following licenses and permits:

- (a) open burning permit as provided in G.L. c. 48, §13;
- (b) bicycle permits as provided in G.L. c. 85, §11A;
- (c) temporary license to sell articles for charitable purposes as provided in G.L. c. 101, §33;
- (d) children work permits issued under G.L. c. 149, §69;
- (e) clubs or associations licensed under G.L. c. 140, §21E;
- (f) dog licenses issued pursuant to G.L. c. 140, §137;
- (g) fishing, hunting and trapping licenses issued pursuant to G.L. c. 131, §13;
- (h) marriages licenses issued under G.L. c. 207, §28;
- (i) public exhibition permits issued under G.L. c. 140, §181.

### **§ 34. Regulations**

The city manager shall have the authority to adopt any rules and regulations he deems necessary to implement §§ 26 through 33 of this chapter.

CHAPTER TWELVE

STREETS AND SIDEWALKS

- § 1. General Superintendence
- § 2. Sidewalk Construction and Repair
- § 3. Expense Estimate Required
- § 4. Procedure for Laying Out Public Ways
- § 5. Temporary Footpaths or Walks
- § 6. Prior Notice of Paving Work
- § 7. Monumentation
- § 8. Reports to City Manager
- § 9. Numbering Buildings
- § 10. Street Names
- § 11. Street Opening Permits
- § 12. Permit for Construction of Ways
- § 13. Annual License to Obstruct Streets
- § 14. Pole Locations
- § 15. Removal of Poles
- § 15A Veterans Memorials
- § 16. Petitions to Locate Tracks or Conduits
- § 17. Work on Utilities in Private Streets
- § 18. Replacing Disturbed Portion of Street
- § 19. Safeguards
- § 20. Exceptions
- § 21. Encroachments
- § 22. Sidewalk Vaults
- § 23. Sidewalk Snow Removal
- § 24. Directing Snow or Water on Street
- § 25. Sidewalks & Crosswalks
- § 26. Prohibited Activities
- § 27. Littering of Streets

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§ 1. General Superintendence

(a) The commissioner of public works (who shall hereinafter be referred to as "commissioner") shall have the general superintendence of the public streets, sidewalks, lanes and bridges of the city, attend to the construction,

alteration, grading, paving, repairing and cleaning of same, remove all obstructions or encroachments made thereon, and have the care of all vehicles, machinery, implements of labor and buildings pertaining to or having relation to the department of public works street operations.

(b) Whenever any provision of this chapter prohibits any action without the permission or permit from the commissioner, or requires the issuance of any permit or license, or for any work or service to be performed by the commissioner or employees of the department of public works (which shall hereinafter be referred to as "department"), the commissioner may exercise the authority granted under §24 of chapter two of these Revised Ordinances and establish a fee or charge for such permit, license, work or service.

## **§ 2. Sidewalk Construction and Repair**

(a) When any sidewalk shall have been laid out, established and ordered, the commissioner shall grade and construct the sidewalk of such material as the city council shall deem expedient and shall set, curb and pave gutters whenever the same shall be ordered by the city council.

(b) It shall be the duty of the commissioner to keep an exact account of all expenses and outlays required or incurred in performing the work authorized in each order and report the same in writing within thirty days of the completion of the same, with the names of the owners of the estates abutting thereon and chargeable with the whole or any part of such expense, to the auditor, who shall at once report the same to the city council, and it shall forthwith proceed to assess upon the owners their just and proportionate part of the expense. The report shall contain in separate items the expense of paving the walk, setting the curb and paving the gutter.

(c) Whenever the public convenience and safety require that any sidewalk be repaired, the city council shall order, through the city manager, the commissioner to repair the same, and he shall forthwith cause the same to be repaired.

## **§ 3. Expense Estimate Required**

Whenever any change of grade or alteration is required to be made in any public street, sidewalk or bridge, which may occasion damage to abutters or others, or may render the city liable to a suit or claim therefor, or when any bridge is to be rebuilt, or other specific work is to be done, involving an expenditure of more than three hundred dollars, the commissioner, before commencing the work, shall make, or cause to be made a full and particular estimate of the expense of such proposed repairs, alteration or work, and the plans thereof and shall ascertain as near as may be the damage the abutters or others will be justly entitled to claim or demand to the city in case the proposed alteration is made or work done, and shall report through the city manager such plans, with an estimate of the cost and damage to the city council. He shall also cause the level of the way or sidewalk altered to be ascertained with reference to permanent objects in the vicinity.

## **§ 4. Procedure for Laying Out Public Ways**

Whenever any petition for laying out, making public, widening, altering, relocating, grading or discontinuing any way is presented to the city council and referred by the city council to the committee on public works thereof, it shall be the duty of the commissioner, when requested through the city manager to do so by such committee, to prepare a plan and estimate showing the probable

cost of the work, apportioned to the several estates liable for the same, together with the estimated cost of other assessable improvements such as sewers and sidewalks that may be reasonably expected to be necessitated by such proposed alteration, the cost being likewise apportioned to the respective estates. The plan and estimate shall be furnished complete, with the names and addresses of the owners of the several estates and the amounts assessable upon each of them through the city manager to the city clerk, who shall submit the same to the committee on public works on the part of the city council, and at their request and upon blanks approved by them shall notify the owners of the probable assessments to be levied upon them, enclosing a blank form with each notification upon which the owner shall be requested to state whether or not, in view of all the facts stated, he or she desires the petition to be granted. The city clerk shall preserve the replies when any are received and submit the same to the committee on public works on the part of the city council, who may then determine whether or not a hearing on the petition ought to be granted.

#### **§ 5. Temporary Footpaths or Walks**

The city council may cause temporary footpaths or walks to be graded or constructed, at the expense of the city, in front of vacant lots or elsewhere where the public convenience or interest does not require that permanent sidewalks shall be laid out and established as hereinbefore provided, and such temporary walks shall be subject to all the restriction and regulations contained in this chapter.

#### **§ 6. Prior Notice of Paving Work**

It shall be the duty of the commissioner, before constructing or reconstructing the surface of any street with macadam or paving, to give a written notice to all abutters on the portion of street to be improved, and to all departments and persons whatsoever who may do work in or upon such street, requesting them to execute forthwith any work that they may then or in the near future desire to do therein. The surface of such street so macadamized or paved shall not thereafter for a period of five years be opened or dug up without a special license therefor granted by the commissioner of public works after the applicant has filed a bond with conditions and sureties satisfactory to the city manager.

#### **§ 7. Monumentation**

Whenever any street or way shall be laid out and established, it shall be the duty of the commissioner to cause to be placed at all the angles thereof good and substantial stone monuments, with a hole of suitable size and depth drilled near the center of the uppermost end. In all cases where circumstances may require that the monument shall be sunk even with the surface of the ground or pavement, the distance from the hole in the monument to one or more permanent objects in the immediate proximity of the same shall, if practicable, be ascertained and constitute a part of the record of the laying out of the street.

#### **§ 8. Reports to City Manager**

The commissioner shall make to the city manager annually a detailed report of the work done and money expended in street operations during the preceding financial year, specifying as near as may be the amount expended upon different streets, number of feet of curbstones and yards of paving laid, and cost of same, and such other information as considered desirable, together with

an account and appraisal of the public property under the charge of the commissioner.

#### **§ 9. Numbering Buildings**

The city council, or the commissioner acting under the authority of the city council, shall have the power to cause numbers of regular series to be affixed to or inscribed on all dwelling houses and other buildings erected or fronting on any street, lane, alley or public court in the city, and shall have the power to determine the form, size and material of such numbers, and the mode, place, succession and order of affixing them on such houses or other buildings, and the owner, agent or person having control of any building or part of a building, shall affix to the same the number designated by the city council, or the commissioner acting under its authority, and shall not affix to the same, nor permit to remain thereon more than one day, any number contrary to the direction of the city council or of the commissioner acting as aforesaid.

#### **§ 10. Street Names**

The several streets shall continue to be called and known by the names by which they are now called and known until the same shall be changed by the city council. The name of any street or public square shall not be changed until after a public hearing before the public works committee of the city council or such other body as the city council may direct upon such proposed change. Notice thereof, giving the time and place of such hearing, shall be mailed postpaid to all abutters as shown on the current assessor's lists and shall be published in a newspaper published in the city not less than fourteen days before such hearing.

#### **§ 11. Street Opening Permits**

(a) No person and no department of the city, except the department of public works, shall break or dig up the ground or pavement in any street or erect thereon any staging for building, or place thereon any material or any goods, wares or merchandise, or any coal, dirt, glass, rubbish, sharp or pointed substance of metal, porcelain or earthenware, or any obstruction of any kind, or occupy any portion of a street for the purpose of erecting, repairing or moving any building without a written permit from the commissioner of public works; provided that, in case of an emergency, the head of a department may proceed to act without such license, but shall, as soon as may be, notify the commissioner of public works. Any person applying for a license under this section for work within one hundred feet of a traffic control signal location shall file a copy of the application with the traffic engineer. Such license shall contain such lawful restrictions and limitations as the commissioner, or the traffic engineer, when applicable, may deem necessary for the protection, convenience and safety of the public.

(b) No such license to remove the ground or pavement in any street, for the purpose of constructing a cellar, vault coalhole, or other underground area within street lines nor to maintain such underground areas shall be issued until plans in triplicate of the proposed construction, in detail, have been filed with and approved by the commissioner, but in no case shall the commissioner approve plans for underground construction extending under the streets from the abutting estate for a distance greater than one-half the width

of the sidewalk, unless the plans are also reviewed by the department's engineers.

**§ 12. Permit for the Construction of Ways - (Amended August 20, 1996 - 7083)**

(a) No person shall construct, repair, alter or otherwise open a way for use by the inhabitants thereon or the general public unless 1) the way has been approved by the planning board pursuant to the subdivision control law; or 2) unless the location of the way is in accordance with the official map of the city as amended from time to time; or 3) has been approved by the planning board pursuant to §81G of chapter 41 of the General Laws; and, in the case of 2) and 3) above, unless the planning board has approved the grading, surfacing and drainage of such way.

(b) No person shall construct, repair, alter or otherwise open a way for use by the inhabitants thereon or the general public as described in subsection (a) above without first obtaining an inspection permit from the commissioner. The commissioner may impose reasonable conditions and limitations concerning work to be performed under such permit which shall include, but not be limited to, the following:

(i) unless the completion of the proposed work is validly secured under the subdivision control law, the commissioner shall require the applicant to secure the work in any one or combination of the methods set forth in said subdivision control law (G.L. c. 41, §81U);

(ii) a permit issued hereunder shall be valid for one construction season only, which shall commence on April 1st and end on November 15th. The commissioner, in his sole discretion, may allow the issuance of a permit for work to be undertaken during the time period from December 1st to the end of February;

(iii) the applicant shall establish a time period and schedule for the completion of the permitted work, but in no event shall such time period exceed the term of the permit;

(iv) the applicant shall provide the commissioner a detailed schedule of construction activities;

(v) the applicant shall submit an erosion control plan, which must be approved by the commissioner, relative to the work to be undertaken pursuant to the permit;

(vi) all related inspection fees must be paid in full prior to issuance of the permit;

(vii) a pre-construction conference with the engineering division of the department of public works shall be held prior to issuance of the permit.

**§ 13. Annual License to Obstruct Streets**

Whenever a permit is required under this chapter to occupy any portion of a street for the purpose of erecting, repairing, maintaining or moving any building or for the purpose of erecting, maintaining or repairing any sign either freestanding or attached to any building, upon written application the commissioner may issue a written blanket license covering all locations specified in the application subject to the following provisions:

- (a) issuance of the blanket license shall be within the discretion of the commissioner;
- (b) any blanket license issued under this section shall be valid from the date of issuance through December thirty-first of the year in which the blanket license is issued; thereafter, in the discretion of the commissioner, the blanket license may be renewed after written application by the license holder for the following period, January first through December thirty-first;
- (c) the hours of operation under the license shall be between 7:00 a.m. to 7:00 p.m. local time;
- (d) all requirements of the department of public works permit manual, as may be amended, are hereby deemed to be incorporated in and made of requirement of each blanket license;
- (e) the commissioner may revoke any blanket license issued under this section for any violation of subsections (c) and (d) above, or for any conditions relating to such blanket license which in the opinion of the commissioner shall constitute a threat to the health and safety of any person using the street or to any person or property in proximity thereto.

#### **§ 14. Pole Locations**

(a) The commissioner shall have authority, except as is otherwise expressly provided by law or ordinance, to locate all electric line and all other poles which may properly be located within the streets or ways.

(b) If any person shall have cause to petition the city council for the removal or relocation of street light poles obstructing access to his or her property, said petitioner shall be charged by the commissioner a charge equal to the total costs of said removal or relocation, including restoration of the disturbed street or sidewalk, pavement or way, and such charges shall be a condition of approval of said petition by the city council. Such charges shall be in addition to any charges levied in accordance with §16 of this chapter. The commissioner shall require each petitioner, as a condition for the commencement of any work authorized under this section, to post a sum of money in an amount which the commissioner shall determine, and which shall be applied as a partial payment toward the full charges for the work authorized.

#### **§ 15. Removal of Poles**

(a) Any person who removes an electric line or other pole, which was located in accordance with this chapter and with G.L. c. 166, §22, shall comply with the following requirements in the removal thereof:

- (i) The pole, including its appurtenant fixtures and structures, shall be removed in its entirety, and no temporary replacement pole, or so-called "half-pole", shall be installed in place thereof.
- (ii) Prior to removal of the pole, the person shall notify the commissioner and obtain such permits or licenses as may otherwise be required under this chapter.
- (iii) In accordance with §16 of this chapter, temporary repairs to the disturbed street or sidewalk caused by the pole removal operation shall be made immediately upon removal of the pole. Permanent

repairs to the disturbed area shall be completed no later than thirty days after removal of the pole.

(b) The provisions of this section shall not apply to the removal of an electric line or other pole when such removal is for routine maintenance or replacement with a similar size and type pole, and the use of the location previously granted is to continue in accordance with the original or amended approval.

**§ 15A. Veterans Memorials - (Ordained May 11, 2004 - 8460)**

(a) No memorial, monument or metal plaque which is placed or designed as a memorial for any veteran of the armed forces of the United States shall be located or relocated on any public street, meaning the full width of the right-of-way including any sidewalk or traffic island, without the prior approval of the city of Worcester made under the terms of this ordinance.

(b) Any person seeking to locate or relocate any veterans memorial shall file a petition with the city council identifying the memorial, stating its proposed location and, for any new memorial, containing the text of the inscription proposed for the memorial. Any petitioner seeking a new veterans memorial shall submit a birth certificate establishing the residency of the veteran in whose memory the memorial is concerned and a casualty report (Form 1330) providing evidence that the veteran was either killed in action, missing in action or lost at sea. The city council may accept such other documentation as it deems acceptable to establish these qualifications. By filing any such petition, the petitioner shall agree to be bound by the terms of this ordinance should the petition be adopted by the city council and the memorial located or relocated as a result thereof.

(c) Each petition for the location or relocation of a veterans memorial shall be referred for a public hearing to the military affairs committee of the city council or such other committee or body as the city council may direct. Notice thereof, giving the time and place of such hearing, shall be mailed postpaid to all abutters and abutters to abutters to the proposed location as identified on the current assessor's lists, to the Worcester Veterans Council, to any other veterans organization designated by order of the city council. Said notice shall also be published in a newspaper published in the city not less than fourteen days before such hearing. In the event of a petition seeking the relocation of a memorial, notice shall also be sent to the family or other suitable representative of the individual responsible for the existing location of the memorial to the extent that the identity and address of such individual is reasonable ascertainable by the city clerk.

(d) Upon the conclusion of its proceedings and deliberations, the committee may amend either the proposed location for any new or relocated memorial or the proposed inscription for any new memorial and shall report its recommendation on the petition to the city council. The city council may conduct further proceedings, may further amend the petition, and shall otherwise act upon the petition in accordance with its rules. The adoption of any such petition shall be deemed to include the acceptance of a gift in trust from the petitioner of an amount, in the case of a new memorial, of one thousand five hundred dollars or such other sum as the city council may by order establish, or, in the case of the relocation of a memorial, the actual cost to the city to relocate the memorial. All such gifts shall be held in trust by the city treasurer and expended for the procurement and installation

of a granite black plaque and the maintenance, repair, or replacement of a new memorial or for the personnel, overhead and equipment necessary to relocate a memorial, as the case may be.

(e) Upon the adoption of any such petition and the establishment of a trust fund with the city treasurer, the city manager may authorize the procurement of the materials for the memorial and the installation thereof and commissioner shall have authority to impose reasonable conditions, including performance and payment bonds, on any permit issued in connection with the installation of any such memorial.

(f) In the event any member of the city council files any such petition on behalf of another person, the obligations of the petitioner under this ordinance shall be borne by the person on whose behalf the petition was filed.

(g) In the event that the city manager, or any of the city officers under the jurisdiction of the city manager, deems it advisable to locate or relocate any such memorial, the obligations of this ordinance shall apply except that in lieu of a petition the city manager may transmit his or her recommendation to that effect to the city council.

(h) The city manager or the head of any department involved in the location or relocation of memorials may adopt regulations consistent with the terms of this ordinance.

#### **§ 16. Petitions to Locate Tracks or Conduits**

Any person who petitions the city council for authority to locate or relocate street railway tracks, railroad tracks, or to construct and maintain telephone, telegraph, electric light or electric power underground conduits, in the public streets of the city, shall file with the city clerk thirteen copies of such petition and the plan accompanying the same, and the city clerk shall mail or deliver to each member of the city council a copy of such petition and plan immediately after such copies have been filed with him. Any such person shall also file a copy of such petition and plan with the commissioner together with any fee established in accordance with these Revised Ordinances.

#### **§ 17. Work on Utilities in Private Streets**

(a) No person shall, except in an emergency, contract for or make an excavation to place, install, repair or construct in, on, along, under and upon any private ways, pipes, conduits, manholes, and other appurtenances, necessary for the transmission of gas, electricity, telephone, television, water and sewer service, unless at least seventy-two hours, exclusive of Saturdays, Sundays and legal holidays, but not more than thirty days, before the proposed excavation is to be made, such person has given notice of the proposed excavation to the commissioner, on a form acceptable to the commissioner. In the case of an emergency, notice shall be given as soon as may be practicable. The commissioner shall forthwith forward copies of this completed notification form to the police and fire departments.

(b) The form of notification shall include the following information:

- (i) type of service being installed, relocated or repaired, along with the name and address of the owner thereof;
- (ii) name and business address of excavating contractor;
- (iii) name and address of property owner authorizing the work;
- (iv) reasonably accurate description of the location of the excavation and underground facility installed, relocated or repaired;
- (v) statement certifying that all abutters to the private street have been given notice of the proposed excavation work.

(c) Any person convicted of violating this section shall be punished by a fine of not more than fifty dollars.

#### **§ 18. Replacing Disturbed Portion of Street**

(a) Whenever any person, or any department of the city shall remove or disturb any portion of a street, way, pavement or sidewalk for any purpose whatsoever, such street, way, pavement or sidewalk shall be replaced in a safe and suitable condition for the public travel as may be directed by the commissioner, it shall be so replaced by the commissioner at the expense of the person so disturbing or removing the same, or in the event of its being done by a department of the city, the expense thereof shall be charged to such department.

(b) The person or department so digging or disturbing any portion of a street, way, pavement or sidewalk shall be responsible for any settlement or imperfect condition of the same for twenty-four months after the same shall have been replaced as aforesaid, and in the event of their failure to keep the same in a condition satisfactory to the commissioner, he or she shall repair the same, and they shall pay for the expenses thereof in the same manner as for replacing the same.

#### **§ 19. Safeguards**

(a) In all cases in which a permit may be given for opening any street, the commissioner may impose such conditions and limitations as he or she shall see fit with regard to erecting barriers, maintaining lights and taking other precautions for the security of travelers and other persons.

(b) In cases in which a license is given for obstructing or excavating any street and parking meters are involved, the commissioner may order to be temporarily taken out of operation any such parking meter, the same to be done in accordance with said license by the traffic engineering division.

(c) Any permit required by any provisions of this chapter shall also express the time for which it shall continue in force.

(d) Every person holding a permit issued by the commissioner shall install and maintain appropriate barricades or other safety warning devices at every work site for which such permit is issued.

(e) The commissioner shall require as a condition prior to the issuance of any permit that the applicant agree to pay a fee to the department of public works whenever the department is required by the failure of the permit holder

to comply with this section to install appropriate barricades or other safety warning devices at any work site for which a permit has been issued.

(f) The commissioner shall refuse to issue any permit to any person who has failed to pay in full any fees or charges imposed by this section.

(g) Every person receiving a permit or license required by any provision of this chapter shall execute a written agreement to indemnify and save harmless the city against all damage or cost by reason of any claim for damages, or any process, civil or criminal, on account of the existence of such obstruction or excavation, or any injury to any person occasioned thereby and such person shall be required to obtain an insurance policy of sufficient coverage, including completed operations, to carry out the agreement to indemnify. The sufficiency of said insurance shall be approved by the commissioner and the city solicitor.\*

\*Amended November 10, 1997 - 7344

(h) The commissioner may require any person receiving a permit or license required by any provision of this chapter to post security, in a form and of an amount acceptable to the commissioner, for purposes of ensuring completion of the permitted or licensed project work.\*

\*Ordained November 10, 1997 - 7344

## **§ 20. Exceptions**

Nothing in this chapter shall prevent the unloading or temporary deposit in the street or sidewalk of merchandise, fuel, building material, or other articles in course of carriage to or from premises adjacent or neighboring; provided, that such articles shall be removed forthwith on request of the commissioner and shall in no case be suffered to remain more than six hours.

## **§ 21. Encroachments**

(a) No person shall erect, set up or maintain any fence, portico, platform or door step extending into any street, and no person shall hoist any material from any street into a building adjoining the same so that the material while so being hoisted shall overhang any part of the street, after notice from the chief of police that the apparatus used for that purpose, or the manner of doing the same, is, in his opinion, unsafe, until the party shall have obtained apparatus therefor, and until he shall do the same in a manner satisfactory to the chief of police.

(b) No person shall suffer a cellar door or cellar doorway, from any sidewalk or street, into any cellar or basement, to be kept open when not in immediate use, nor when in immediate use, after the beginning of twilight, unless a good and sufficient light be constantly kept at the entrance of such door or doorway.

(c) No person shall allow any cellar, vault, cistern or well to be uncovered in or near any street, unless the same be enclosed by a safe and sufficient fence, curb or guard, and every opening or area in any street or public place shall be covered and guarded in such manner is directed by the commissioner.

(d) No person shall allow any gate belonging to premises owned or occupied by him or under his legal control, and adjoining any street to swing on, or into the street.

(e) No person shall establish or maintain any shade or awning over any part of a street or sidewalk unless the same be securely and safely supported and unless the lowest part thereof be not less than seven feet above such street or sidewalk.

(f) No person shall erect or cause to be erected any fence or building adjoining any street or public ground in the city without having first ascertained the bounds of the same by application to the commissioner.

(g) No person shall cause, allow or maintain any growth of shrubs, brush or trees to extend onto or over any portion of any public way, including the sidewalk area between the traveled portion of the way and the boundary between the abutting property and the way, so as to impair the health and safety of the people in the vicinity of the property by making the property appear neglected or abandoned and thereby creating a public nuisance with the accumulation of trash or debris on the property, nor shall any person cause, allow or maintain any such overgrowth so as to impair the safety of pedestrians traveling on the way. Any person found in violation of this subsection shall be penalized by a fine of twenty-five (\$25.00) dollars with each calendar day constituting a separate offense.

\*Ordained September 9, 2003 - 8361

(h) No person shall erect, set up or maintain any structure or shelter in or extending into any street, provided, however, that the commissioner may issue a revocable license to the Worcester Regional Transit Authority to maintain a bus shelter(s), which may contain advertising within such shelter, on the sidewalk portion of any street adjacent to a designated bus stop location(s). Each such bus shelter shall be subject to a separate license. All requirements of the department of public works manual, as amended, are hereby deemed to be incorporated in and made a requirement of each license. \*

\*Ordained October 14, 2003 - 8400

## § 22. Sidewalk Vaults

(a) For purposes of this section the phrase "structure, excavation, or conduit" shall include, but is not limited to a cellar, vault, coalhole, manhole, hyatt light, post, pole, hole for post or pole, sign, awning, wire or pipe.

(b) One who owns, possesses or controls any structure, excavation or conduit in, under, over, or upon a public way, by such ownership, possession or control of the structure, excavation or conduit, shall be deemed to have entered into the following agreement with the city:

- (i) to maintain the structure, excavation or conduit and cover thereof, if any, in good repair and condition;
- (ii) to maintain any gas or electric boxes and tubes in any way connected with said structure, excavation or conduit in good repair and condition;

- (iii) to maintain the public way directly above or adjacent to said structure, excavation or conduit, as the case may be, in good repair and condition; and
- (iv) to indemnify, defend and hold the city harmless against any and all damages, costs, or expenses the city may sustain or be required to pay, whether as a result of a judgment and execution issued by a court of competent jurisdiction or otherwise, by reason of such structure, excavation, conduit, cover, gas or electric boxes and tubes, or public way being in dis-repair, improperly or inadequately maintained, or defective during such ownership, possession, or control as the case may be; and;
- (v) to maintain any above ground structure connected to or related to a conduit in good repair and condition and to remove any graffiti or defacement from such structure.

**§ 23 Sidewalk Snow Removal - (Amended February 21, 2001 - 8051)**

(a) The owner or occupant of land bounded by any street whereon there is a sidewalk shall within ten hours after snow ceases to fall, cause all snow to be removed from such sidewalk so far as the same shall abut on the land. Any person convicted of violating this section shall be punished by a fine of not more than fifty dollars.

(b) If the owner or occupant fails to remove such snow within the time provided in the preceding section, the city may remove or cause to be removed such snow and the owner or occupant shall reimburse the city for the expense incurred for such removal. The sum so expended may be recovered in an action of contract by the city against the owner or occupant.

(c) The owner or occupant of land bounded by any sidewalk located within the limits of state highways shall within ten hours after snow ceases to fall, cause all snow to be removed from such sidewalk so far as the same shall abut the land. Any person convicted of violating this section shall be punished by a fine of not more than fifty dollars.

(d) For purposes of this section, "sidewalk" shall mean any paved area that is immediately adjacent to the area of a public or private way designated for vehicular travel.

**§ 24. Directing Snow or Water on Street**

(a) No person, either directly or indirectly through agents or employees, shall place or cause to be placed snow, except for immediate removal, on

- (i) any public way, or
- (ii) any private way on the official map so as to leave available less than twelve feet in width for the clear and unobstructed passage of emergency vehicles.

(b) The owner of any building near the line of any street, where the roof of the building slopes towards the street, shall cause all the snow and ice to be removed from such roof within twenty-four hours after the same shall have ceased falling or forming, or shall cause such roof to be provided with

suitable barriers to prevent the fall of snow or ice therefrom upon persons traveling in such street.

(c) No person owning or having the control of a building upon land adjoining a street through which a common sewer is laid shall suffer any water from the roof, gutters, conductors or waterspouts of such building to be discharged or to flow over or upon any street or sidewalk, but shall cause all such water to be conducted by suitable pipes, properly laid, into the common sewer, in accordance with all other applicable provisions of the Revised Ordinances and the State Building Code.

#### **§ 25. Sidewalks and Crosswalks**

(a) No person shall drive any motor vehicle, motorcycle, snowmobile or any other motor-powered vehicle on the sidewalk or footway of any street or public grounds of the city, except for the purpose of crossing as near as may be at right angles to such sidewalk, and in order to go into or out of some adjoining enclosure.

(b) No person shall stand, or place any obstruction of any kind, upon any street, sidewalk or crosswalk in such a manner as to obstruct a free passage for travelers thereon.

#### **§ 26. Prohibited Activities**

(a) No person, other than musicians in a lawful parade or procession, or **street performers acting in accordance with sub-section (h)\*** hereof, shall, in any street, except as a warning of danger, ring or cause to be rung, any bell, or use, or cause to be used, or played upon, any musical or noise-making instrument.

**\*Amended May 7, 1996 - 6986**

(b) No person, except persons selling newspapers, shall stand in any street for the purpose of selling any article, or for the exercise of any business or calling, unless otherwise provided by law.

(c) No person shall stand or walk upon the street or sidewalk in front of any place of business or amusement, for the purpose of advertising or soliciting patronage for such business or amusement.

(d) No person shall, in any street, place, post up or paint any placard, handbill, poster, notice or advertising sign, or cut or carve any such notice or advertising sign upon any object, nor shall any person erect or maintain bulletin boards in any street without a license from the license commission.

(e) No person shall place a directional sign upon any post or sidewalk, street or highway or project a directional sign over any sidewalk, street or highway, except on order of the city council. Such order may contain such lawful restrictions and limitations as to sign, place, type, size and such other conditions that the city council may deem necessary for the protection, convenience, and safety of the public, together with an agreement by the person to keep the signs in good repair and condition at all times and to indemnify and save harmless the city against any and all damages, costs, expenses or compensation which it may sustain or be required to pay whether as a result of a judgment or execution issued by a court of competent jurisdiction or

otherwise, by reasons of the sign being in, over or upon the way or being unfastened, out of repair or defective during such ownership or control as the case may be. Each person seeking permission to post such signs shall pay one dollar for each authorization. The city council, prior to granting any license under this section, shall refer any request for a license to the traffic engineer through the city manager for his or her recommendation and advice. Any sign erected without approval of the city council shall subject the person placing or authorizing the said sign to a fine of five dollars for each day during which said sign is maintained without a permit or in violation of any of the terms and conditions set by the city council.

(f) No person shall wantonly mar, injure, deface or destroy any fence, guidepost, signboard, lamp post, lamp, lantern, electric light post or electric light in any street, and no person shall destroy or extinguish any street light.

(g) No person shall, within the limits of any street, play at any game of ball or football, throw any snowball, stones or other hard substance, drive or roll a hoop, fly any kite, or engage in any other amusement game or exercise interfering with the free, safe and convenient use of such street by any person traveling or passing along the same, nor shall any person promote or encourage the fighting of birds or animals in any street.

(h) No person shall act or perform as an itinerant musician on any public street or private way shown on the Official Map of the city, or in any public park, playground, or the Worcester Common, where such person conducts such activity:

(1) within one hundred feet of any: (A) elementary or secondary school; (B) library; (C) church while in session; (D) hospital or nursing home; or, (E) other street performer or group of street performers; or,

(2) in such a manner as to block roadways, sidewalks, crosswalks, driveways, stairways, curb cuts, handicapped access ramps nor block access to buildings, parks, public conveyances, businesses, crosswalks, traffic control poles containing pedestrian crosswalk button(s), or within twenty feet of a fire hydrant or within five feet of any fire alarm or other emergency communication devise, including public telephones, either by the performer's location, or by the location of any crowd that the performer may draw (for purposes of this ordinance "block" shall mean to reduce the width of an area for pedestrian passage or access to less than thirty-six inches or, in the case of motor vehicles, to an area less than twelve feet); or,

(3) on any portion of a public street which has been closed to usual vehicular or pedestrian traffic for any reason, except that where an authorized street fair or public festival is being conducted, such activities may be conducted only with the permission of the sponsor of such fair or festival; or,

(4) at any time outside of the hours of 8:00 a.m. to 9:00 p.m.; or,

(5) so as to generate noise exceeding a median sound level of eighty decibels measured at a distance of fifty feet from the performer or group of performers; or,

(6) where such activity is conducted within any public park, playground, or the Worcester Common, without the written permission of the Parks & Recreation Commission.

Nothing in this subsection (h) shall prevent any street performer from requesting contributions of money or property at a performance, provided that no sign requesting contributions shall exceed twelve inches by eighteen inches.

\*Ordained May 7, 1996 - 6986

(i) No person shall cause, allow or maintain any personal property of any sort which is not registered as a motor vehicle under chapter ninety, section one, of the General Laws of Massachusetts (i) to occupy any area in excess of six square feet within the limits of any public way within the city or (ii) to occupy any area within the limits of any public way in such a manner as to impair the health and safety of persons traveling upon the way, unless such occupation has otherwise been permitted under authority of any other ordinance or law. Any person found in violation of either portion of this subsection shall be penalized by a fine of twenty-five (\$25.00) dollars with each calendar day constituting a separate offense.\*

\*Ordained September 9, 2003 - 8361

#### § 27. Littering of streets

(a) No person in any public street or way under the jurisdiction of the city shall, whether in or upon a vehicle or on foot, deposit, drop or throw upon such street or way or walk thereof, and suffer to remain there, any filth, rubbish or refuse unless it is deposited, dropped or thrown into a receptacle provided for the purpose. No person shall throw from any building onto a public way or other public place, or sweep, throw or otherwise remove into any public way or other public place or into any roadway or walk, any filth, rubbish, or other substance and suffer the same to remain there.

(b) Any person convicted of violating this section shall be punished by a fine of not more than two thousand dollars.

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### § 1. Definitions

(a) For the purpose of this chapter, the words and phrases used herein shall have the following meanings except in those instances where the context clearly indicates a different meaning.

"bicycle" - any wheeled vehicle propelled by pedals and operated by one or more persons.

"bus" - Any motor vehicle operated for the carriage of passengers for hire in such a manner as to afford a means of transportation by indiscriminately receiving and discharging passengers along the route on which the vehicle is operated or may be running, or for transporting passengers for hire as a business, or under a charter license, special service or school service. Excluding passenger or station wagon type motor vehicles whose gross weight is less than five thousand pounds.\*

\*Ordained February 29, 2000 - 7804

"bus stop" - an area adjacent to the edge of a roadway reserved for the boarding of or alighting from buses.

"commercial loading zone" - a space adjacent to the edge of a roadway reserved for the exclusive use of commercial vehicles during the loading or unloading of freight.

"commercial vehicle" - any vehicle designed, maintained or used in the transportation of goods, wares, or merchandise for commercial purposes and registered for commercial activity.

"crosswalk" - that portion of a roadway ordinarily included within the prolongation or connection of curb lines and property lines at intersections, or any portion of a roadway clearly indicated for pedestrian crossing by lines on the road surface or by other markings or signs.

"driveway" - a private way connecting a house, garage or other building or area requiring a vehicular access with the street and designated by a proper curb cut approved by the Worcester Department of Public Works.

"emergency vehicle" - vehicles of the fire department or police department, or ambulances and emergency vehicles of federal, state and municipal departments or public service corporations when the vehicles are responding to an emergency in relation to the public safety.

"intersection" - the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more streets which join one another or the area within which vehicles traveling upon different streets joining at an angle may come in conflict. (The rules and regulations herein contained governing and restricting the movement of vehicles at and near intersecting ways shall apply at any place along any way at which drivers are to be controlled by traffic control signals whether or not such place is an intersection as herein defined.)

"lane" - a longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles.

"officer" - any uniformed member of the Worcester Police Department or any other officer authorized to direct or regulate traffic or to make arrests for the violation of traffic regulations.

"official traffic control devices" - all signs, signals, markings, and devices conforming to the standards as prescribed by the Massachusetts Highway Department not inconsistent with these ordinances placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, directing, warning, or guiding traffic.

"parking" - the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in the receiving or discharging of passengers, or in obedience to the orders of a police officer or traffic control sign or signal.

"parking meter" - any mechanical device placed or erected on any public way within the city for the control of traffic by the regulation of parking. A parking meter shall be so constructed as to display a signal showing legal parking upon the deposit therein of the proper coin or coins of the United States as indicated by the instructions on the parking meter and for such period of time as is or shall be permitted by the ordinances. Such signal shall remain in evidence until expiration of the parking period designated at which time a dropping of a signal automatically or some other mechanical operation shall indicate expiration of the parking period.

"parking meter space" - a space within the parking meter zone adjacent to a parking meter which is duly designated for the parking of a single vehicle by markings on the surface of the street adjacent to a parking meter.

"parking meter zone" - that part of any street upon which the parking of vehicles is regulated by parking meters.

"handicapped person/disabled veterans parking space" - a parking space designed for the parking of vehicles owned and operated by a disabled veteran or handicapped person whose vehicle bears a license plate displaying the "International Symbol of Access," or special parking identification plate bearing the "International Symbol of Access" in the left portion of the windshield authorized by General Laws c. 90, sec. 2, as may be amended from time to time. Said parking spaces may also be used by vehicles bearing the official identification of a handicapped person issued by another state.

"passenger zone" - a place adjacent to the edge of a roadway reserved for the exclusive use of vehicles during the loading or unloading of passengers.

"pedestrian" - any person afoot or riding on a conveyance moved by human power, except bicycles.

"roadway" - that portion of a street or highway between the regularly established curb lines or that part improved and intended to be used for vehicular traffic.

"rotary traffic" - counterclockwise operation of vehicles around an object or structure.

"sidewalk" - that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

"standing" - the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers, or in compliance with the instructions of a police officer or traffic control sign or signal.

"street or highway" - the entire width between property lines of every way open to the use of the public for the purpose of vehicular travel.

"taxicab stands" - a space adjacent to the edge of a roadway in which taxicabs are required to park while waiting to be engaged.

"through-way" - any way within the jurisdiction of the city where vehicular traffic from intersecting streets or highways is required to stop before entering or crossing.

"traffic" - pedestrians, ridden or herded animals, vehicles or other conveyances either singly or together while using any street or highway for the purpose of travel.

"traffic island" - any area or space set aside, within a roadway, which is not intended for use by vehicular traffic.

"u turn" - the turning of a vehicle by means of a continuous turn whereby the direction of such vehicle is reversed.

"vehicle" - every device in, upon or by which any person or property is or may be transported, or drawn upon a street or highway, including bicycles when the provisions of these ordinances are applicable to them.

## **§ 2. Approval of Massachusetts Highway Department**

The city clerk shall submit for the approval of the Massachusetts Highway Department all amendments to this chapter which may require the approval of the Massachusetts Highway Department. The city clerk shall duly retain such amendments thereto and they shall be open to public inspection and published at least once in a local newspaper.

## **§ 3. Penalties**

(a) Any person violating §§ 13, 14, 17, 18, 21, 22, 65, 69, or 70 of this chapter shall be punished by a fine according to the following schedule:

- |    |                                       |          |
|----|---------------------------------------|----------|
| a. | first offense in any 12 month period  | \$ 50.00 |
| b. | second offense in any 12 month period | \$ 75.00 |

- c. third and any subsequent offense in any 12 month period \$100.00

(b) Unless a penalty is expressly stated in this chapter, any person violating any other provisions of this chapter shall be punished by a fine of not more than fifty dollars.

#### **§ 4. Push Carts and Riding Animals**

Every person propelling any push cart or riding an animal upon a roadway, and every person driving an animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their nature can have no application.

#### **§ 5. Sleds and Roller Skates**

No person upon roller skates or riding in or by means of any sled, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk, and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall apply any street or roadway open to public use as such unless the same is closed by issuance of a permit from the commissioner of public works and under such restrictions as the city council shall prescribe.

#### **§ 6. Exemptions from Traffic Ordinances**

The provisions of this chapter shall not apply to operators, lawfully open, or actually engaged in work, upon a street or highway closed to travel or under construction or repair, or to officers when engaged in the performance of public duties, or to operators of emergency vehicles while operating in an emergency and in performance of public duties, when the nature of the work of any of these activities necessitates a departure from any part of this chapter. These exemptions shall not, however, protect the operator of any vehicle from the consequences of any disregard of the safety of others.

#### **§ 7. Experimental Regulations**

For the purposes of experiment, the city council may make temporary rules regulating traffic for a period not exceeding ninety days, so that the effect may be studied under actual conditions, notwithstanding that the temporary regulations so made are inconsistent with the provisions of this chapter. No such temporary regulation shall be in force unless official signs, signals, markings or other devices are displayed.

#### **§7A Motor Scooters Prohibited - (Ordained July 6, 2004 - 8520)**

(a)Notwithstanding any other provision of these ordinances, any person who operates any motor scooter on any portion of any public or private street shown on the official map of the city, including the sidewalk area of any such street, or on any other public property, including schools, playgrounds and parks, within the city of Worcester, shall be fined one hundred dollars.

(b)Any person who rides as a passenger on any motor scooter operated in violation of the above shall be fined fifty dollars.

(c)Whenever any police officer observes any person in violation of this section, he or she may detain such person for purposes of the enforcement of

this section and may remove such motor scooter to a secure area pending a disposition of such property by court order or otherwise by law.

(d)As used in this section, "motor scooter" shall mean any wheeled device designed for the transport of one or more persons which is powered by any type of motor, except:

- 1) any "motorcycle" or "motorized bicycle" as defined in G.L. c. 90, §1;
- 2) any vehicle registered as a motor vehicle by the registrar of motor vehicles or lawfully exempt from such registration;
- 3) any wheelchair by a person with physical disabilities or any similar mobility-assisting device used or by a person whose ambulatory mobility has been impaired by age, illness or physical ailment; or,
- 4) any vehicle owned or leased by the city of Worcester.

(e)Notwithstanding the above, this ordinance shall not prohibit the operation of any electric vehicle not capable of speeds in excess of twelve and one-half miles per hour on any paved sidewalk or marked pedestrian crosswalk.

#### **OPERATION OF VEHICLES**

##### **§ 8. Clinging to Moving Vehicles**

No person traveling upon a sled, roller skates, coaster, bicycle or any toy vehicle shall cling to, or attach himself or such conveyance to any other moving vehicle upon any roadway.

##### **§ 9. Riding on Vehicle Prohibited**

(a) No person shall ride on any portion of a motor vehicle not designated or intended for the use of passengers except that an employee or invitee of the owner of a truck may be permitted to ride in that part of the truck within which the load is usually carried.

(b) No person shall board or alight from a vehicle while it is in motion.

##### **§ 10. Vehicle Weight Exclusion**

(a) When official signs are erected giving notice thereof, no commercial vehicle of the authorized carrying capacity shall be permitted upon streets listed in schedule XI, on file in the office of the city clerk, and which schedule XI is specifically incorporated in this section by reference.

(b) Exception is made for the delivery and the reception of materials to the premises abutting upon the respective streets, or to adjacent streets which cannot be reached by other public ways. This section shall not apply to emergency vehicles as herein defined, or to buses.

(c) Any person violating this section shall be punished by a fine of one hundred dollars.

##### **§ 11. Vehicle Length Exclusion**

(a) When official signs are erected giving notice thereof, no commercial vehicle having an overall length in excess of 28 feet, between the hours of 4:00 p.m. and 6:00 p.m. shall be permitted upon streets or parts of streets listed in schedule XII, on file in the office of the city clerk, and which schedule XII is specifically incorporated in this section by reference.

(b) This section shall not apply to emergency vehicles as herein defined or to buses.

#### **§ 12. Restricting Collection and Deliveries**

When official signs are erected giving notice thereof, there shall be no collection or delivery of goods or materials of any kind between the hours of 4:00 p.m. and 6:00 p.m. on streets or parts of streets listed in schedule XIII, on file in the office of the city clerk, and which schedule XIII is specifically incorporated in this section by reference; except in an emergency, and then only as authorized by the chief of police covering one day's delivery or collection.

#### **§ 13. Keep to the Right of Roadway Division**

Upon such roadways as are divided by a parkway, grass plot, reservation, viaduct, subway or by any structure or area, operators shall keep to the right of such a division except when otherwise directed by an officer, signs, signals or markings.

#### **§ 14. Overtaking Other Vehicles**

The operator of a vehicle shall not overtake and pass a vehicle proceeding in the same direction unless there is sufficient clear space ahead on the right side of the roadway to permit the overtaking to be completed without impeding the safe operation of any vehicle ahead and without causing the operator of any such vehicle to change speed or alter course, except as provided in G.L. c. 89, § 2.

#### **§ 15. Sound Horn When Necessary**

The operator of a vehicle shall give an audible warning with his horn or other suitable warning device whenever necessary to ensure safe operation.

#### **§ 16. Obstructing Intersection or Crosswalk**

No operator shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk and on the right half of the roadway to accommodate the vehicle that he is operating without obstructing the passage of other vehicles or pedestrians notwithstanding any traffic control signal indication to proceed.

#### **§ 17. Following too Closely**

The operator of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the street or highway.

#### **§ 18. Care in Starting, Stopping, Turning or Backing**

The operator of any vehicle before starting, stopping, turning from a direct line, or backing shall first see that such movement can be made in

safety. If the operation of another vehicle should be affected by a stopping or turning movement, the operator of such vehicle shall be given a plainly visible signal.

#### **§ 19. Operation at Underpasses or Overpasses and at Intersections with Islands**

At any junction or crossing of ways where the roadway grade has been separated and where the ways are connected by ramps, and at any intersection of ways in which there are traffic islands, operators of vehicles shall proceed only as indicated by official signs, signals, or markings.

#### **§ 20. Driving on Roads Under Construction**

(a) No operator of a vehicle shall enter upon the road surface of any street or highway or section thereof when, by reason of construction, surface treatment, maintenance or the like, or because of some unprotected hazard, such road surface is closed to travel and one or more signs, lights or signals have been erected to indicate that all or part of the road surface of the street or highway is not to be used, or when so advised by an officer, watchperson, member of a street or highway crew or employee of the city, either audibly or by signals.

(b) Whenever traffic signs are erected or warning lights are displayed in or adjacent to a street or highway to notify the presence of personnel and equipment in such street, every operator shall regulate the speed of his vehicle in a manner and to a degree consistent with the particular condition.

#### **§ 21. Driving on Sidewalks**

The operator of a vehicle, including bicycles, shall not drive upon any sidewalk except at a permanent or temporary driveway.

#### **§ 22. Emerging from Alley, Private Driveway, or Building**

The operator of a vehicle emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving upon the sidewalk extending across such alley or driveway, and shall yield the right of way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right of way to all vehicles approaching upon the roadway.

#### **§ 23. Opening Vehicle Doors**

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load and unload passengers.

#### **§ 24. Funeral Processions**

(a) A funeral composed entirely or partly of a procession of vehicles shall be identified as such by means of turned on driving headlights and taillights of all vehicles in the procession.

(b) It shall be the duty of each operator in a funeral or other procession to keep as near to the right edge of the roadway as is feasible and to follow the vehicle ahead as closely as is practicable and safe.

(c) At an intersection where a traffic control signal is operating or a stop or yield sign is located, the operator of the first vehicle in a funeral or other procession shall be the only one governed by the traffic signal indication or the stop or yield sign.

#### **§ 25. Permits for Parades**

No person, group of persons or group of vehicles shall march or parade upon any street or part thereof except under a permit of the chief of police designating the route of such parade, and there shall be no deviation from the route designated by the chief of police and such other regulations as are set forth herein which may apply. This section shall not apply to § 24 of this chapter, the police and fire departments of the city, nor to the units described in G.L. c. 33, §§ 47, 49 and 50, dealing with the military and naval forces of the United States, or veterans and affiliated organizations.

#### **§ 26. Obedience to Traffic Signs and Signals**

The operator of any vehicle or bicycle shall obey the instructions of any official traffic control sign, parking meter, signal, device, marking or legend, unless otherwise directed by a police officer or firefighter in the performance of his duty. Every such operator shall comply with the order, signal or direction of a police officer, any ordinance in this chapter to the contrary notwithstanding.

#### **§ 27. Obedience to Stop Signs**

(a) In accordance with the provisions of chapter 89, § 9 of the General Laws, every operator of a vehicle approaching an intersection of ways where there exists facing him an official "stop" sign, or an official flashing red signal indication, shall bring such vehicle to a complete stop at such point as may be marked by a sign or line, or if a point is not so marked, before entering the crosswalk; but if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering the intersection.

(b) This section shall not apply when the traffic is otherwise directed by a police officer or traffic control signals, or as provided in § 26 of this chapter.

#### **§ 28. Through Streets Designated**

(a) In accordance with G.L. c. 89, § 9, the erection and maintenance of official stop signs is authorized upon ways intersecting those streets and parts of streets designated as through streets, as listed in schedule XIV, on file in the office of the city clerk, and which schedule XIV is specifically incorporated in this section by reference.

(b) This section shall not apply when the traffic is otherwise directed by a police officer or traffic control signals.

#### **§ 29. Isolated Stop Signs Designated**

In accordance with G.L. c. 89, §9, the following streets are designated as stop streets at the intersections and in the direction indicated as provided

for in schedule V on file in the office of the city clerk, and which schedule V is specifically incorporated in this section by reference.

### **§ 30. Flashing Red Signal Intersections Designated**

The streets listed in schedule V-A are on file in the office of the city clerk and are hereby declared to constitute flashing red signal intersections. Said schedule V-A is hereby specifically incorporated in this section by reference.

### **§ 31. Obedience to Yield Signs**

(a) In accordance with G.L. c. 89, §9, the following streets are designated as "yield" streets at the intersections and in the direction indicated as provided for in schedule VIII on file in the office of the city clerk, and which schedule VIII is specifically incorporated in this section by reference.

(b) Every operator of a vehicle approaching an intersection of ways where there exists facing him an official "yield" sign, shall surrender to oncoming traffic his right to enter the intersection until such time as he has brought his vehicle to a complete stop at a point between the said "yield" sign and the nearer line of the street intersection, provided, however, that this requirement to stop before entering the intersection shall not apply when an operator approaching a "yield" sign can enter the intersection in safety without causing interference to approaching traffic.

(c) This section shall not apply when the traffic is otherwise directed by a police officer or traffic control signal, or as provided in § 26 of this chapter.

### **§ 32. Zones of Quiet**

(a) All of the territory within two hundred feet of the premises of each hospital in this city is hereby created and established as a zone of quiet. The traffic engineer is hereby authorized to erect and maintain in a conspicuous manner within these areas such signs and markings as are necessary to designate them as zones of quiet.

(b) No person operating a motor vehicle within any designated and posted zone of quiet shall sound a horn or other warning device on the vehicle except in an emergency, nor shall such person make any loud or unusual noise in the zone of quiet.

## **TRAFFIC SIGNS, SIGNALS, MARKINGS AND DEVICES**

### **§ 33. Traffic Control Signal Legend**

(a) Colors and arrow indications in traffic control signals shall have the commands ascribed to them in this section, and no other meanings; and every operator of a vehicle or other conveyance shall comply therewith, except when otherwise directed by an officer or by a lawful traffic regulating sign, other than a "stop" sign, signal or device, or except as provided in § 26 of this chapter.

(b) In no case shall an operator enter or proceed through an intersection without due regard to the safety of other persons within the intersection regardless of what indications may be given by traffic control signals.

(c) While the green lens is illuminated, operators facing the signal may proceed through the intersection, but shall yield the right of way to pedestrians and vehicles lawfully within a crosswalk or the intersection at the time such signal is exhibited. Operators of vehicles making a right or left turn shall yield the right of way to pedestrians crossing with the flow of traffic.

(d) When a right green arrow is illuminated, operators facing the signal may turn right. When a left green arrow is illuminated, operators facing the signal may turn left. When a vertical green arrow is illuminated, operators facing the signal may go straight ahead. When a green arrow is exhibited together with a red or a yellow lens, operators may enter the intersection to make the movement permitted by the arrow, but shall yield the right of way to vehicles and pedestrians proceeding from another direction on a green indication.

(e) While the yellow lens is illuminated, waiting operators shall not proceed and any operator approaching the intersection or a marked stop line shall stop at such point unless so close to the intersection that a stop cannot be made in safety; provided, however, that if a green arrow is illuminated at the same time, operators may enter the intersection to make the movement permitted by such arrow.

(f)(1) Traffic facing a steady circular red signal alone shall stop at a clearly marked stop line, or if none before entering the crosswalk on the near side of the intersection or if none then before entering the intersection and shall remain standing until an indication to proceed is shown except as allowed by chapter 89, § 8 of the General Laws.

(2) No driver of a vehicle facing a circular red signal indication shall make a right turn, or a left turn from a one-way street into another one-way street, where official traffic signs are installed and maintained prohibiting such a turn where listed in schedule X.

(g) While the red and yellow lenses are illuminated together, operators shall not enter the intersection and during such time the intersection shall be reserved for the exclusive use of pedestrians.

(h) A flashing red lens shall indicate those intersections at which an operator is required by law to stop before entering.

(i) A flashing yellow lens shall indicate the presence of a hazard and operators may proceed only with caution.

(j) A flashing green lens shall indicate an intersection or pedestrian crosswalk in use or subject to use by entering or crossing traffic. Operators may proceed only with caution and shall be prepared to comply with a change in the signal to a yellow and red indication.

#### **§ 34. Display of Unauthorized Signs, Signals and Markings**

No person shall place, or maintain or display upon or in view of any street any unofficial sign, signal, device or marking which purports to be or is an imitation of, or resembles an official traffic sign, signal, device or

marking, or which attempts to direct the movement of traffic or which hides from view any official sign or signal. The chief of police is authorized to remove every such prohibited sign, signal, device or marking or cause it to be removed without notice, and he shall receive the cooperation of the traffic engineering division of the department of public works of the city in the performance of this duty.

**§ 35. Interference with Signs, Signals and Markings**

Any person who willfully defaces, injures, moves, obstructs or interferes with any official traffic sign, parking meter, signal, device or marking shall be liable to a penalty not exceeding twenty dollars for each and every offense.

**STOPPING, STANDING AND PARKING**

**§ 36. Responsibility and Penalties for Parking Violations - (Amended November 12, 2002 - 8267)\*\*\* See Note**

(a) A fine of ten dollars shall be imposed for each violation of the parking meter and of the time limits provisions of S42 as designated in schedule I and schedule VI and S60, and for each violation of S59 and for each violation of S54 and any regulation of the Off-Street Parking Board concerning metered parking in off-street lots.

(b) A fine of fifteen dollars shall be imposed for each violation of S37 first para.), S37(b), S37(d), S37(g), S37(k), S37(m), S37(o), S45, S46, S49, S51, S52, S54, and S59 .\*

**\*Amended October 25, 2005 - 8700**

(c) A fine of twenty dollars shall be imposed for each violation of S37(a), S37(c), S37(e), S37(h), S37(l) and S37(p), S38, S40, **42A\***, S44, S47(b) and any regulation of the Off-Street Parking Board, except those described in subsection (a) above.

**\*Amended February 12, 2008 - 9114**

(d) A fine of twenty-five dollars shall be imposed for each violation of S37(c) S37(e), S37(i) and S37(j), and S41, S43(a), S47 and **S57A(b)\***

**\*Amended October 25, 2005 - 8701.**

(e) A fine of thirty dollars shall be imposed for each violation of S37(k), S37(q) and S53.

(f) A fine of fifty dollars shall be imposed for each violation of S37(f) and S65(a), **S65(b)\* and S57A(a)\*\*.**

**\*Amended October 25, 2005 - 8700**

**\*\*Amended October 25, 2005 - 8701**

(g) A fine of one hundred dollars shall be imposed for each violation of S39(a) and a fine of two hundred dollars shall be imposed for each violation of S39(b).

(h) Every fine imposed in this section shall be increased by five dollars if not paid within 21 days from the date of issuance. Thereafter, upon notice by the parking administrator to the Registrar of Motor Vehicles pursuant

to chapter 90, S20A ½ of the General Laws, the fine shall be increased by an additional fifteen dollars.

**\*\*\*Note Section 36 was amended by 7153 - December 17, 1996 and 7182 - January 28, 1997 before it was replaced by 8267**

### **§ 37. Prohibited Parking**

No person shall allow, permit or suffer a vehicle to be parked in any of the places listed herein. Vehicles found in violation of the provisions of this section may be moved by or under the direction of a police official, and the owner of the vehicle so removed or towed away, shall be liable for the cost of such removal and storage charges if any, and liable for parking penalties.

(a) Within an intersection or rotary, except within an area thereof where departure from these rules is indicated by signs or except where installation of parking meters is approved by the Massachusetts Highway Department.

(b) Upon any sidewalk.

(c) Upon any crosswalk.

(d) Upon a roadway where parking is permitted unless both wheels on the right side of the vehicle, or both wheels on the curb side of the vehicle on a one-way street and headed in the direction of travel, are within twelve inches of the curb or edge of the roadway. This shall not apply to such locations where angle parking is permitted by this chapter.

(e) Upon any roadway, or in a fire lane established by authority of the fire department or within a private way or alley open to public use or furnishing means of access for fire apparatus or other emergency equipment to any dwelling, building, or any other place that might require services of such fire apparatus or other emergency equipment in such a manner as to leave available less than twelve feet for clear and unobstructed passage of vehicular traffic. No person shall stop, stand or park a vehicle within a private way or alley in such a position as to block the driveway entrance to any abutting property.

(f) Upon any roadway within ten feet of a fire hydrant.

(g) Upon any roadway within five feet of any private road or driveway.

(h) Upon any roadway within twenty feet of a crosswalk, marked or unmarked, at any intersection.

(i) On the street side of any vehicle stopped or parked at the edge of a roadway (double parking).

(j) Within fifteen feet of the wall or driveway of a fire station or directly across the street from such fire station provided signs are erected acquainting the driver of such regulation or restriction.

(k) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(l) At a bus stop as posted by official signs designating the limit of the bus stop at the edge of the sidewalk.

(m) On or adjacent to the center division strip or island placed upon and being a part of any public way.

**(n)\* Repealed November 14, 2000 - 7983**

(o) Upon or under a bridge.

**(p) No person shall park a commercial vehicle, bus or trailer having a gross weight of 11,000 pounds or more on any residentially zoned street where parking is permitted for a period of time longer than one hour between the hours of 1:00 A.M. and 6:00 A.M. of any day, or any time on Sunday, except that such vehicles may be parked for periods in excess of this restriction while actually being loaded or unloaded.\***

**\*Amended February 29, 2000 -7804, December 12, 2000 -7987 and February 27, 2007 - 8965**

(q) When official signs are erected giving notice of parking restrictions and a tow-away zone, parking is prohibited or restricted as to time, space and streets in accordance with the schedule of streets designated in schedule IX, on file with the office of the city Clerk and schedule IX is specifically incorporated in this section by reference.

(r) No vehicle parked in a prohibited area shall be allowed to remain in a street, way or city parking facility for more than five consecutive days.

**(s) Ordained December 18, 2007 - 9091 before it was repealed January 22, 2008 - 9113**

### **§ 38. Trespass by Parking on City Land**

(a) Whoever parks a motor vehicle upon land or premises belonging to the city or the Worcester Housing Authority after notice that parking in the area is unauthorized, either directly by a police officer or a special police officer of the city or by a notice posted thereon, or by other appropriate markings, shall be punished by a fine of fifteen dollars.

(b) In any prosecution under this section, proof that the person named in the complaint was at the time of such parking the registered owner of such vehicle, shall be prima facie evidence that such person was the person who parked such vehicle upon such land at such time.

### **§ 39. Parking in Handicapped Person/Disabled Veteran Parking Space Prohibited**

(a) Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, shall reserve parking spaces in said off-street parking areas, in conformity with the provisions and requirements of section twenty-one of chapter forty and section two of chapter ninety of the General Laws, as may be amended from time to time, for any vehicle which bears the distinguishing license plate or which displays the special parking identification plate authorized by G.L. c. 90, sec. 2, or

which bears the official identification of a handicapped person issued by any other state, according to the following formula:

If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, five percent of such spaces but not less than two; more than forty but not more than one hundred, four percent of such spaces but not less than three; more than one hundred but not more than two hundred, three percent of such spaces but not less than four; more than two hundred but not more than five hundred, two percent of such spaces but not less than six; more than five hundred, but not more than one thousand, one and one-half percent of such spaces, but not less than ten; more than one thousand, but not more than two thousand, one percent of such spaces but not less than fifteen; more than two thousand but less than five thousand, three-fourths of one percent of such spaces but not less than twenty; and more than five thousand, one-half of one percent of such spaces but not less than thirty.

(b) No vehicle that does not bear the distinguishing Handicapped Persons/Disabled Veterans license plate or the special parking identification plate as authorized by G.L. c. 90, sec. 2, or the official identification of a handicapped person authorized by any other state shall stand or be left in any parking space within the city designated for handicapped parking, nor shall any unauthorized vehicle be left in such a manner as to obstruct a curb or ramp designed for use by handicapped persons as a means of egress to a street or public way.

(c) the police chief or his or her designee may remove, or cause to be removed, to some convenient place, or to a municipal or public garage, any vehicle parked, standing or left in a parking space located on the public way designated for use by disabled veterans or handicap persons, or any unauthorized vehicle left on the public way in such a manner as to obstruct a curb or ramp designed for use by disabled veterans or handicapped persons as a means of egress to a street or public way. Vehicles owned by the Commonwealth of Massachusetts or a political subdivision thereof or registered by a member of a foreign diplomatic corps or by a foreign consular officer and bearing a distinctive number plate or otherwise conspicuously marked as so owned or registered, shall not be subject to removal. In addition to the fine set forth in section 36(e) herein, the actual and reasonable costs of such removal and storage charges, if any, shall be charged to the owner or person in whose name the vehicle is registered, provided however that such charges shall not exceed the maximum rate established by the department of telecommunications and energy.\*

\*Ordained June 19, 2001 - 8085

(d) upon complaint or when requested by a person who has lawful control of an off-street parking area, the chief of police or his or her designee, may remove or cause to be removed, to some convenient place, or to a municipal or public garage, any vehicle parked, standing or left in a parking space located in said private off-street parking area and designated for use by disabled veterans or handicap persons, where such space is properly identified by the use of above grade signs with white lettering against a blue background, bearing the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May Be Removed At Owner's Expense". In addition to the fine set forth in section 36(e) herein, the actual and reasonable costs of such removal and storage charges, if any, shall be charged to the owner or person in whose name

the vehicle is registered, provided however that such charges shall not exceed the maximum rate established by the department of telecommunications and energy.

\*Ordained June 19, 2001 - 8085

#### § 40. Residents Parking Program

(a) No person shall park any vehicle in any area posted "resident parking only" without a properly displayed, valid and current resident parking sticker issued under the provisions of this section.

(b) Where official signs are erected giving notice thereof, parking is prohibited or restricted as to time, space and streets in accordance with the schedule of streets designated as schedule XX on file with the city clerk, and which schedule XX is specifically incorporated in this section by reference.

(c) The parking administrator shall issue a resident parking sticker upon payment of a fee of \$10.00, to the non resident owner of property which is located within the resident only parking zone and to any resident, owner/user of motor vehicles who meet the qualifications of this ordinance. Only vehicles containing a resident parking sticker under this ordinance shall be authorized to park in the appropriate zone of the city posted "parking by resident permit only". The resident parking sticker shall not be construed so as to waive or annul any other parking ordinances or regulations of the city. No resident parking sticker shall be issued unless the vehicle is registered in the Commonwealth under General Laws, chapter 90, § 2, in the city, with a registered gross weight of under 1 ton and owned or used by a person residing in the City at the address on the registration.

(d) No resident sticker shall be valid unless it is located on the rear window, driver's side, lower left corner of the vehicle. On station wagons and convertibles, the resident sticker shall not be valid unless it is located on the glass on the left side of the vehicle, as far back towards the rear as possible.

(e) No resident sticker shall be issued unless the owner presents proof of residency in the form of one of the following:

- (1) A current registration certificate issued by the Registry of Motor Vehicles stating the required information by sub-section (c).
- (2) As required above along with a current paid Worcester excise tax bill.

(f) A photocopy of a registration will be accepted following the requirements of sub-section (e) providing it can be verified by the parking administrator through the Registry of Motor Vehicles. The parking administrator may rely upon such other information and documentation as is reasonable to establish the lawful residency of the applicant. In all cases, the parking administrator's decision as to the residency of the applicant shall be final.

(g) The parking administrator shall issue one visitor permit upon payment of an additional fee of to any resident who meets one of the following qualifications.

- (1) The resident owns a vehicle which qualifies for a parking sticker under subsection (c) providing no other person in the same household has been issued a visitors permit; or
- (2) In a household where the resident do not have a motor vehicle, a current utility or phone bill or a lease inclusive of utilities (valid for at least one year), provided no other person in the same household has been issued a visitor permit; or
- (3) A household in which the resident own or control a motor vehicle which is not registered as specified in subsection (c), may be issued one visitor permit for use on their visitor's vehicle only. All motor vehicle registrations must be shown before visitor permits will be issued.
- (4) Visitor permits shall not be issued to anyone residing in any building owned by a college or university or other educational institution and used for residential purposes by students and affiliates of any such university or college.

(h) Additional visitor permits of a number specified by the parking administrator may be issued to doctors of medicine, dentists and funeral directors, or any other home occupation or business use authorized as an accessory use in a residential zone under the Zoning Ordinance, upon written application, providing the practice is conducted in an area posted "parking by resident permit only", and the traffic engineer determines that no parking is available in this area. The holder of such additional visitor permits shall not allow employees or anyone other than clients and patients to use the permits. Applications shall be sent to the parking administrator on the applicant's professional letterhead. The parking administrator may require additional information verifying the legality of the use from the code commissioner.

(i) Parking stickers shall automatically expire when a car ceases to qualify under subsection (c), if affixed to a car other than the one so designated at the time of application, or if the registration number on the resident sticker is different than the one of the vehicle. Any vehicle bearing a revoked parking sticker and parked on a posted street will be subject to the same penalty as a vehicle without a parking sticker or a visitor permit.

(j) Visitor permits and parking stickers will expire on December 31 of each year. Any vehicle bearing an expired visitor permit or parking sticker and parked on a posted street will be subject to the same penalty as a vehicle parked without a parking sticker or visitor's permit.

(k) Visitors permit regulations: One visitor permit shall be issued per household for use by visitors only, while visitors are actually visiting the household to which they were issued. The visitor permits shall be displayed on the front dashboard, above the steering wheel, and shall be fully readable from the exterior of the vehicle. Any extended use (more than 10 days) of a visitor permit must have prior approval of the parking administrator. Visitor permits must be returned to the resident at the conclusion of the visit. No replacement visitor permits shall be issued by the parking administrator. In the event a resident of Worcester moves from one section of the city to another, the issued visitor permit shall be returned to the parking officer along with the proof of the new address as required in subsection (e) in order to obtain a new sticker or permit.

(l) Visitor permit shall expire and be revoked by the parking administrator under the following circumstances:

- (1) It is used on any vehicle owned or controlled by a resident.
- (2) It is used on an employee's car.
- (3) It is used for more than ten days by a visitor without prior approval of the parking office.

(m) Temporary Parking Permits: Temporary parking permits shall be issued by the parking administrator to residents upon payment of a fee and under the following circumstances:

- (1) A resident with a resident sticker whose vehicle was stolen or is being repaired, and has a rental car. The parking administrator shall issue a city-wide temporary permit at no charge for the length of the rental agreement.
- (2) A resident with a vehicle who is transferring a registration shall be issued a temporary permit for seven days to allow time to change over. This will be valid only in the area in which he/she resides. A valid registration along with a proof of residency shall be required in order to obtain a permit.
- (3) A resident, who owns no vehicle and is renting or leasing one, must submit proof of residency along with a rental or lease agreement. A temporary permit shall be issued for the length of the rental or lease agreement.

(n) No permit under this ordinance shall be issued unless all parking fines and/or penalties and all excise taxes and/or penalties due to the city on all vehicles registered to household members have to be paid in full prior to issuance of any stickers or permits to household members.

#### **§ 41. Misuse of Resident Parking Stickers**

(a) No person shall sell, offer for sale, give, trade or otherwise transfer any resident parking sticker issued under chapter 9 of the Revised Ordinances to another person or affix said sticker to a motor vehicle other than the designated vehicle, or alter said sticker in any manner.

(b) No person shall sell, offer for sale, give, trade or otherwise transfer a resident visitor permit issued under said chapter to anyone, or in any manner alter said permit.

(c) Any person who violates this section shall be subject to a fine of not more than three hundred dollars for each offense.

#### **§ 42. Time-Limited Parking**

(a) Parking is prohibited, restricted or limited as to time, space and streets in accordance with schedules of streets designated as schedule I and schedule VI on file in the office of the city clerk, and which schedule I and schedule VI are specifically incorporated in this section by reference.

(b) When official signs are erected giving notice thereof, no operator shall park a vehicle in a location where parking is prohibited or in a location where parking is restricted for a period of time longer than is designated in schedule I and schedule VI.

(c) The provisions for a time limitation on parking and the provisions for the prohibition of parking from 7:00 a.m. to 6:00 p.m. in schedule I shall not apply on Sundays and holidays. The provision for a time limitation on parking in schedule VI (parking meter schedule) shall not apply on Sundays and Holidays and no parking fees shall be required. The provision that no parking fees shall be required shall be further extended to Saturdays to meters on those streets in the central business district at the locations listed in schedule VI.

**§ 42A. Parking Spaces for Vehicles Rented or Leased to the General Public on an Hourly Basis - Ordained February 12, 2009 - 9114**

- (a) Where official signs are erected giving notice thereof, parking is restricted in such spaces designated by such signs to vehicles leased or rented on a hourly basis to the general public by a legal entity authorized to do business in the Commonwealth of Massachusetts and engaged in such rental business and which has designated such vehicles to the Commissioner of the Department of Public Works and Parks and the Commissioner has authorized such vehicles to use to such restricted parking spaces. The Commissioner of the Department of Public Works and Parks is authorized to make such reasonable regulations to implement this ordinance, including but not limited to the location of such restricted parking spaces and to file such regulations with the city clerk as Schedule XXI. After filing with the city clerk such Schedule XXI is specifically incorporated into this section.
- (b) No vehicle shall park in any such restricted space unless authorized to do so under subsection (a) above.
- (c) Any vehicle authorized under subsection (a) above to park in any such restricted space shall comply with all other applicable provisions of these ordinances including but not limited to provisions relating to snow removal and street sweeping.

**§ 43. Winter Parking Ban - (Amended November 14, 2000 - 7983)**

- (a) No person shall allow, permit or suffer a vehicle to be parked on any street in violation of the winter parking ban parking restrictions of this ordinance.
- (b) The winter parking ban parking restrictions applicable to any particular location shall depend upon whether that location is governed by the "general even side ban" or listed within one of the "zone bans" as follows:

(1) *General Even Side Ban.* Parking is prohibited on all public streets on that side of which buildings are designated with even numbers, except as otherwise provided in subsections (2) - (5) below; provided, however, that, on any street or portion of street where there is "no parking anytime" on the odd numbered side and parking is normally permitted on the even numbered side, parking will continue to be permitted on the even numbered side.

(2) *Arterial Streets.* Parking is prohibited on both sides of any street listed under Zone A in Schedule VII, which is on file in the office of the city clerk and is specifically incorporated in this section by this reference.

(3) *Odd Side Ban.* Parking is prohibited on that side of the streets where buildings are designated by odd numbers on any street listed under Zone B in Schedule VII.

(4) *Both Sides Allowed.* Parking is permitted on both sides of any street listed under Zone C in Schedule VII.

(5) *Both Sides Prohibited.* Parking is prohibited on both sides of the streets listed under Zone D in Schedule VII.

(c) Each street listed within the categories contained in subsection (b) above shall be designated as either a "declared ban" or "permanent ban" street.

On those streets designated as a declared ban street, the parking restrictions specified within each zone shall be in effect only during the dates and times specified in a "winter parking ban declaration" issued by the city manager or his delegate in accordance with subsection (d) hereof. On those streets designated as a permanent ban street, the parking restrictions shall be in effect as follows:

(1) *Zone A.* Between 2:00 a.m. and 6:00 a.m. during the period during December, January, February, March and April and whenever snow accumulates to a depth greater than two inches, or when ice or freezing rain require street clearing operations, or until the street has been cleared of snow or ice to within twelve inches of the curb line, or until street treatment operations have been completed.

(2) *All Others.* Between 2:00 a.m. and 6:00 a.m. during the period during December, January, February and March and whenever snow accumulates to a depth greater than two inches, or when ice or freezing rain require street clearing operations, or until the street has been cleared of snow or ice to within twelve inches of the curb line, or until street treatment operations have been completed.

(d) Whenever winter weather conditions require, or are likely to require, plowing, sanding, or other street clearing operations, the city manager, or his delegate, is hereby granted authority to issue a "winter parking ban declaration". Such declaration shall cause the parking prohibitions contained in subsection (b) of this section to become effective for the duration of such declaration. The city manager may delegate the authority to issue declarations under this section to any official under his jurisdiction by filing a letter with the city clerk giving notice of such delegation. The city manager may rescind any such delegation at any time, without notice, and shall as soon as practicable thereafter file a notice of such rescission with the city clerk. Any such declaration shall state the date and time when the full winter parking ban is to become effective and the official issuing said declaration shall give notice of the declaration to radio, television, cable and daily newspaper operators serving the city. The official issuing of any declaration shall also give notice thereof to the ranking officer on duty in the police department. The full winter parking ban shall remain in effect until the person possessing the authority to make declarations under this section rescinds such declaration. Notice of any such rescission shall be given in the same manner as the issuance of any such declaration. Each declaration and rescission made under this section shall be filed with the city clerk.

**§ 44. Parking of Commercial Vehicles on Public Streets Adjacent to Parks Prohibited**

When official signs are erected giving notice thereof, no person shall park a commercial vehicle upon that side of the street adjacent to a public park or playground

**§ 45. Passenger Curb Loading Zone**

When official signs are erected giving notice thereof, no person shall stop, stand or park any vehicle at any curb adjacent to the entrance of a building housing twelve or more apartments, bank, church, hospital, hotel, railroad station, bus station, or terminal, theater, public building or any place of public assemblage, except for the purpose of receiving or discharging passengers. Such entrance shall be designated as a passenger zone by the city council, and it shall be authorized to remove such signs if they no longer serve a building of such specified use.

**§ 46. Commercial Curb Loading Zone**

When official signs are erected giving notice thereof, no person shall stop, stand or park any commercial vehicle at any curb designated as a commercial loading zone for any purpose or for any length of time other than for the expeditious unloading or delivery or pick up and loading of material not to exceed thirty minutes during the hours when provisions applicable to loading zones are in effect. Such a zone shall be designated by the city council.

**§ 47. Parking at Schools**

(a) When official signs are erected giving notice thereof, no person shall park a vehicle upon that side of the street adjacent to any private or public school property between the hours of 7:00 a.m. to 6:00 p.m.

(b) When official signs are erected giving notice thereof, no person shall park a vehicle within twenty feet of a designated school crosswalk.

**§ 48. Parking for Certain Purposes Prohibited**

No person shall park a vehicle upon any roadway for the purpose of:

(a) displaying such vehicle for sale;

(b) washing, greasing, or repairing such vehicles except repairs necessitated by an emergency.

**§ 49. Vehicles Engaged in Selling Prohibited from Standing in Roadway**

No person operating or having charge of any vehicle engaged in the selling of refreshments, food, flowers or any other merchandise for sale shall stand or park such vehicle in any public roadway in the city so as to interfere with the free, safe and convenient movement of traffic of the roadway.

**§ 50. Vehicles Used for Advertising**

No person shall operate or park on any street a vehicle for the primary purpose of displaying advertising without first obtaining a permit therefor from the chief of police.

**§ 51. Stopping, Standing and Parking of Buses and Taxicabs Regulated**

(a) The operator of a scheduled bus shall not stop, stand or park such a vehicle upon any street at any place other than at a bus stop so designated, such location shall be designated by the city council.

(b) The operator of a taxicab shall not stand or park such vehicle upon any street other than at a taxicab stand so designated. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of, and while actually engaged in, the expeditious loading or unloading of passengers.

(c) Taxicabs may be stationed at the locations designated in schedule II, on file with the city clerk, to which reference is made and which schedule II, is specifically incorporated in this section. Buses may be stationed at the locations designated in the inbound and outbound bus stop list, on file in the department of traffic engineering, to which reference is made and which the inbound and outbound bus stop lists are specifically incorporated in the section. Such locations referred to in this section shall be designated by the city council.

#### **§ 52. Restricted Use of Bus and Taxicab Stands**

No person shall stop, stand or park a vehicle except as otherwise posted, other than a bus in a bus stop, or other than a taxicab in a taxicab stand, when any such stop or stand has been officially designated and appropriately indicated with a sign except that the operator of a passenger vehicle may temporarily stop therein for the purpose of, and while actually engaged in, loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

#### **§ 53. Obstructing Travel by Stopping Vehicle**

No person shall stop any vehicle on any street in such a manner as to hinder or obstruct public travel.

#### **§ 54. Diagonal Parking**

Diagonal parking is permitted upon certain sections of streets designated in schedule I, on file in the office of the city clerk, and which schedule I relative to diagonal parking is herewith specifically incorporated in this section by reference. Where such diagonal parking is permitted, vehicles shall be parked with one wheel within 12 inches of the curb and at the angle to the curb indicated by official marks and signs. The vehicle shall be parked so that all four wheels thereof shall be placed wholly within the area indicated for parking, and headed to the curb.

#### **§ 55. Temporary Prohibited Parking**

When official signs are erected giving notice thereof, the chief of police is authorized to prohibit, temporarily, parking on or closing of any street or highway or part thereof or to alter the direction of traffic flow in an impending or existing emergency, or for a lawful assemblage, demonstration or procession or in the event of extraordinary circumstances, provided there is a reasonable justification for such prohibition. Vehicles parked in places where parking is prohibited temporarily may be moved by or under the direction of a police officer.

**§ 56. Installation of Immobilization Device, Towing and Impoundment to Enforce Parking Violations**

(a) Whenever it is determined that there is recorded with the parking clerk notice that a motor vehicle has outstanding five or more parking violations which have occurred in the city, and that such violations have incurred monetary penalties not paid in accordance with law, such motor vehicle may be immobilized by the parking clerk or his or her designee where located upon any street, way, parking lot or other location open to the use of the public, whether or not such vehicle is legally parked, by attachment hereto of an immobilization device.

(b) The parking clerk or his designee shall, upon installation of the said immobilization device, conspicuously place upon such motor vehicle a written notice to the owner thereof or other person in charge of said vehicle stating the following:

- (1) That by authority of this chapter 9, the motor vehicle has been rendered immobile by the attached device;
- (2) That the device may be removed upon the payment of the outstanding monetary penalties described in paragraph a, together with an immobilization fee of fifty dollars;
- (3) That such payment may be made to the parking clerk during regular business hours or at such other location as authorized by the clerk; and
- (4) That the owner or person in charge of said vehicle may request a hearing before the said clerk to determine whether or not the motor vehicle was immobilized in accordance with law.

(c) The immobilization device shall not be removed until either (1) the owner or other person in charge of the motor vehicle has paid a fee of fifty dollars, and paid all outstanding penalties of which may be levied for parking violations; or (2) upon a request in writing and in accordance with law to the parking clerk for a hearing to determine the legality of such immobilization, provided that there is posted with such request sums sufficient to defray the amount of such penalties and immobilization fee; provided that after hearing thereon and a finding by the clerk that the motor vehicle was legally immobilized the said cash shall be forfeited; (3) upon a finding of the parking clerk that said vehicle was not immobilized legally.

(d) Whenever it is determined by the chief of police or his designee that public safety requires immediate removal of any motor vehicle hereunder, or whenever a motor vehicle has remained immobilized hereunder for twelve hours or more, the Parking clerk shall cause the motor vehicle to be towed pursuant to this chapter to a designated storage area where it shall be impounded until released in accordance with paragraph (c).

(e) Whenever any motor vehicle has been impounded hereunder reasonable effort shall be made to determine the name of the registered owner and within a reasonable time after impoundment written notice shall be furnished to him by either (1) certified mail, postage prepaid, to the address shown on the registration, or (2) delivery to him in hand or at his last known address.

(f) If it is necessary to enter a locked or unlocked motor vehicle in order to tow or impound it, such entry shall be made by a police officer in the presence of the sector sergeant of police, or, if the sector sergeant is

unavailable another police officer. They shall make an inventory of the contents therein, shall take such measures as they may deem necessary to protect the same, and shall take into their possession for safekeeping such contents as they may deem necessary. They shall forthwith deliver to their superior such inventory and those articles that they have taken into their possession.

(g) While immobilized hereunder, the vehicle shall be exempt from any further parking violation tickets.

(h) Anyone who, without authority, attempts to free a vehicle which has been immobilized hereunder or who damages the immobilization device, shall be fined not more than two hundred dollars.

(i) The parking clerk is hereby authorized to promulgate such rules and regulations as may be necessary to implement the provisions of this section.

#### **§ 57. Removal and Storage of Motor Vehicles**

(a) Except as otherwise provided by law, the chief of police, or his designee may, for the purpose of facilitating the flow of traffic, to lessen congestion on the public ways, and to further protect the safety of the public, to remove or cause to be removed from any public way in the city, to some convenient place or to a municipal or public garage, any motor vehicle which has become abandoned, or which has become disabled, or which following its theft or unauthorized taking has been recovered by the police department, or which otherwise is to be removed in accordance with the law. The cost of such removal and the storage charges, if any, shall be borne by the owner.

(b) No independent tow contractor shall perform any services hereunder unless he has been selected on the basis of competitive bids, the invitation for which shall have been issued by the purchasing department, which invitation shall specify the amount to be charged by the contractor to the owner of said vehicle for removal and for storage. The contractor shall not charge any fee or sum in excess thereof. Said invitation may provide for bidding for services to be rendered in designated zones of the city, and may require the successful bidder to offer road service at the scene to the vehicle.

#### **§57A. Parking Vehicles on Public Ways Without a Valid Registration or Certificate of Inspection (Ordained October 25, 2005 - 8701)**

(a) No person shall park a vehicle that is unregistered or invalidly registered as required by G.L. c. 90 upon any public way whether or not such vehicle is in an otherwise permissible parking space.

(b) No person shall park a vehicle not bearing a valid certificate of inspection as required by G.L. c. 90 upon any public way whether or not such vehicle is in an otherwise permissible parking space.

#### **PARKING METERS**

#### **§ 58. Parking Meter Legend**

Each parking meter shall bear thereon a legend indicating the days and hours when the requirement to deposit coins therein shall apply, the value of the coins to be deposited, and the limited period of time for which parking is lawfully permitted in the parking meter zone in which such meter is located.

**§ 59. Manner of Parking**

No person shall stop or park a vehicle within a parking meter space unless such vehicle is wholly within the marked lines at such space and only one vehicle shall park within the marked stall lines.

**§ 60. Deposit of Coins and Time Limit**

(a) No person shall park a vehicle in a parking meter space during the restricted and regulated time applicable to the parking meter zone unless the appropriate coin or coins of United States currency as designated on the accompanying parking meter shall have been deposited or previously deposited therein for an unexpired interval of time. This provision shall not apply to the act of parking or the necessary time which is required to deposit immediately thereafter a coin or coins in such meter.

(b) No person shall park a vehicle in any parking meter space for a consecutive period of time longer than the limited period of time for which parking is lawfully permitted in the parking meter zone irrespective of the number or amounts of the coins deposited in the meter for such space.

**§ 61. Commercial Vehicle Exemption**

Except as provided in § 12 of this chapter, operators of commercial vehicles may park in a metered space without depositing a coin or coins for a period not to exceed thirty minutes while loading or unloading.

**§ 62. Tampering with Meter Prohibited**

No unauthorized person shall tamper with, break, injure or destroy any parking meter, or insert, or cause to be inserted in such meter, any slug, device or other substance in substitution for the coins required.

**§ 63. Reservation of Powers**

Nothing contained in these parking meter sections shall be constructed to prohibit the proper city authority from making provisions for bus stops, taxicab stands, loading zones and passenger zones as authorized by other sections of this chapter on any street or portion of street which has been or may hereafter be designated as a parking meter zone.

**§ 64. Leaving Vehicles on Streets After a Two Inch Accumulation of Snow or Ice  
- (Repealed November 14, 2000 - 7983)**

**§ 65. Parking so as to Interfere with Snow Removal, Street Cleaning or Leaf  
Collection Operations - (Amended October 25, 2005 - 8700)**

(a) The owner of a vehicle or person in whose name it is registered shall not allow, permit or suffer such vehicle to stand or park in any street, way, highway or parkway under the control of the city in such a manner as to interfere with the work of plowing, removing snow or ice, or leaf collection operations.

**\* Note 65(a) was amended by 8267 on November 12, 2002 before it was replaced by 8700**

(b) The owner of a vehicle or person in whose name it is registered shall not allow, permit or suffer such vehicle to stand or park in any street, way, highway or parkway under the control of the city in such a manner as to interfere with the work of street cleaning operations.

(c) In any case of removal of snow or ice, street cleaning operations, or leaf collection operations, reasonable notice by temporary signs or markers shall be give of such operations.

**§ 66. Parking Prohibited on Streets Listed in Schedule XIX During Street Cleaning Operations.**

(a) Where official signs are erected giving notice thereof, parking is prohibited or restricted as to time, space and streets in accordance with the categories of streets contained herein and as identified on the schedule of streets designated as schedule XIX which is filed with the city clerk, and which schedule XIX is specifically incorporated in this section by reference.

(1) CENTRAL BUSINESS DISTRICT (CBD) ZONE

(i) Parking is prohibited Monday through Saturday on both sides of the streets listed in schedule XIX under zone CBD-1 between 12:01 a.m. and 7:00 a.m.

(ii) Parking is prohibited Monday and Thursday on both sides of the streets listed in schedule XIX under zone CBD-2 between 12:01 a.m. and 7:00 a.m.

(iii) Parking is prohibited Tuesday and Friday on both sides of the streets listed in schedule XIX under zone CBD-3 between 12:01 a.m. and 7:00 a.m.

(iv) Parking is prohibited Wednesday and Saturday on both sides of the streets listed in schedule XIX under zone CBD-4 between 12:01 a.m. and 7:00 a.m.

(v) Parking is prohibited Sunday on both sides of the streets listed in schedule XIX under zone CBD-5 between 12:01 a.m. and 7:00 a.m.

(2) Parking is prohibited on Monday on both sides of the arterial streets listed in schedule XIX under zone A between 12:01 a.m. and 7:00 a.m.

(3) Parking is prohibited on Tuesday on both sides of the arterial streets listed in schedule XIX under zone B between 12:01 a.m. and 7:00 a.m.

- (4) Parking is prohibited on Wednesday on both sides of the arterial streets listed in schedule XIX under zone C between 12:01 a.m. and 7:00 a.m.
- (5) Parking is prohibited on Thursday on both sides of the arterial streets listed in schedule XIX under zone D between 12:01 a.m. and 7:00 a.m.
- (6) Parking is prohibited on Friday on both sides of the arterial streets listed in schedule XIX under zone E between 12:01 a.m. and 7:00 a.m.
- (7) Parking is prohibited on Thursday on the odd numbered sides of the arterial streets and on Friday on the even numbered side of the arterial streets listed in schedule XIX under zone F between 12:01 a.m. and 7:00 a.m.

(b) Whenever the commissioner of public works designates certain streets, not listed in schedule XIX, for the street cleaning operations, the commissioner shall cause to have erected temporary signs or markers giving reasonable notice that parking on such streets is prohibited during street cleaning operations.

(c) The owner of a vehicle or person in whose name it is registered shall not allow, permit or suffer each vehicle to stand or park in any street, listed in schedule XIX on which signs prohibiting parking have been erected, or on streets on which temporary signs or markers have been erected pursuant to sub-section (2), so as to interfere with street cleaning operations. Any person who violates sub-sections (1) or (2) of this section shall be fined fifteen dollars.

#### **§ 67. Removal of Vehicle by City**

For the purpose of removing or plowing snow or ice from any public way in the city, or for the purposes of street cleaning or leaf collection operations on any public way in the city, the commissioner of public works may remove, or cause to be removed, to some convenient place, or to a municipal or public garage, any vehicle parked in such a manner as to interfere with such work referred to in the preceding section. In addition to the fine set forth in the preceding section, the actual and reasonable cost of such removal and storage charges, if any, shall be charged to the owner or person in whose name the vehicle is registered.

### **CIRCULATION RESTRICTIONS**

#### **§ 68. One-Way Streets**

The streets or portions thereof designated in schedule III, on file in the office of the city clerk and specifically incorporated in this section by reference, are declared to be one-way streets. All vehicular traffic shall move on those streets or portions thereof in the direction designated in schedule III when official signs are erected at every intersection where movement in the opposite direction is prohibited.

#### **§ 69. Rotary Traffic**

With the areas known as Billings Square, Newton Square and Washington Square, vehicular traffic shall move in a rotary counterclockwise direction.

#### **§ 70. Prohibited Left Turns Listed in Schedule IV**

When official signs are erected giving notice thereof, the operator of any vehicle or other conveyance shall not make a left turn from one street into another at the street intersections listed on schedule IV, on file with the city clerk, and which schedule IV is specifically incorporated in this section by reference.

#### **§ 71. Turning Movements**

(a) Where official traffic control devices are erected directing specific traffic to use a designated lane or designating lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, or to prohibit a turn or to make a required turn at an intersection of roadways, drivers of vehicles shall obey the direction of every device.

(b) In accordance with the foregoing, the streets listed on schedule IV-A and IV-B on file with the city clerk, and which schedule IV-A and IV-B are specifically incorporated in this section by reference.

#### **§ 72. Left Turn Only**

When official signs are erected giving notice thereof, the operator of any vehicle shall make a left turn only when proceeding in the direction indicated at intersections listed in schedule XV, on file with the city clerk, and which schedule XV is specifically incorporated in this section by reference.

#### **§ 73. Prohibited Right Turns**

When official signs are erected giving notice thereof, the operator of a vehicle or other conveyance shall not make a right turn from one street into another on streets listed in schedule XVI, on file with the city clerk, which schedule XVI is specifically incorporated in this section by reference.

#### **§ 74. Right Turn Only**

When official signs are erected giving notice thereof, the operator of a vehicle shall make a right turn only when proceeding in the direction indicated at intersections listed in schedule XVII, on file with the city clerk, and which schedule XVII is specifically incorporated in this section by reference.

#### **§ 75. "U" Turns**

(a) The operator of any vehicle shall not make a "U" turn unless such movement can be made in safety and without interfering with other traffic.

(b) When official signs are erected giving notice thereof, the operator of a vehicle shall not make a "U" turn within any area of streets listed in schedule XVIII, on file with the city clerk, and which schedule XVIII is specifically incorporated in this section by reference.

### **SPECIAL SPEED REGULATIONS**

**§ 76. Special Speed Regulations**

When signs are erected giving notice thereof, the following speed limits are established at which motor vehicles may be operated in the areas described in the following ways:

**(a) NON-STATE HIGHWAY SECTION OF AUTO ROUTE TWELVE**

Name of Highways:

West Boylston Street	Grove Street
Gold Star Boulevard	Park Avenue
Webster Street	Hope Avenue
Southbridge Street	

**(1) West Boylston Street - Southbound Traffic**

Beginning on West Boylston Street at the end of the State Highway,  
thence southerly . . . . . 0.82 miles at 35 miles per hour  
thence . . . . . 0.84 miles at 30 miles per hour  
thence . . . . . 0.40 miles at 35 miles per hour  
thence . . . . . 0.49 miles at 30 miles per hour  
Ending at Grove Street, the total distance being 2.55 miles.

**(2) Grove Street - Southbound Traffic**

Beginning on Grove Street at West Boylston Street,  
thence southerly . . . . . 0.27 miles at 30 miles per hour  
Ending at Park Avenue, the total distance being 0.27 miles

**(3) Park Avenue - Southwest Bound Traffic**

Beginning at Park Avenue at Grove Street,  
thence southwesterly. . . . . 0.74 miles at 35 miles per hour  
thence. . . . . 2.13 miles at 30 miles per hour  
Ending at Mill Street, the total distance being 2.87 miles.

**(4) Webster Street - Southbound Traffic**

Beginning on Webster Street 216 feet south of the southerly side of Webster Square,  
thence southerly . . . . . 0.46 miles at 30 miles per hour  
thence . . . . . 0.31 miles at 35 miles per hour  
thence . . . . . 0.08 miles at 30 miles per hour  
Ending at Hope Avenue, the total distance being 0.85 miles.

**(5) Hope Avenue - Eastbound Traffic**

Beginning on Hope Avenue at Webster Street,  
thence easterly. . . . . 0.08 miles at 30 miles per hour  
thence . . . . . 0.56 miles at 35 miles per hour  
thence . . . . . 0.11 miles at 30 miles per hour  
Ending at Southbridge Street, the total distance being 0.75 miles.

**(6) Southbridge Street - Southbound Traffic**

Beginning on Southbridge Street at Hope Avenue,  
thence southerly . . . . . 0.08 miles at 30 miles per hour

Ending at the Auburn Town Line; the total distance being 0.08 miles.

**(7) Southbridge Street - Northbound Traffic**

Beginning on Southbridge Street at the Auburn Town Line,  
thence northerly . . . . . 0.08 miles at 30 miles per hour  
Ending at Hope Avenue, the total distance being 0.08 miles.

**(8) Hope Avenue - Westbound Traffic**

Beginning on Hope Avenue at Southbridge Street,  
thence westerly. . . . . 0.11 miles at 30 miles per hour  
thence . . . . . 0.56 miles at 35 miles per hour  
thence . . . . . 0.08 miles at 30 miles per hour  
Ending at Webster Street, the total distance being 0.75 miles.

**(9) Webster Street - Northbound Traffic**

Beginning on Webster Street at Hope Avenue,  
thence northerly . . . . . 0.08 miles at 30 miles per hour  
thence . . . . . 0.31 miles at 35 miles per hour  
thence . . . . . 0.46 miles at 30 miles per hour  
Ending at a point 216 feet south of the southerly side of Webster Square, the  
total distance being 0.85 miles.

**(10) Park Avenue - Northeastbound Traffic**

Beginning on Park Avenue at Mill Street,  
thence northeasterly . . . . . 2.13 miles at 30 miles per hour  
thence . . . . . 0.74 miles at 35 miles per hour  
Ending at Grove Street, the total distance being 2.87 miles.

**(11) Gold Star Boulevard - Northbound Traffic**

Beginning on Gold Star Boulevard at Grove Street,  
thence northerly . . . . . 0.07 miles at 35 miles per hour  
thence . . . . . 0.38 miles at 40 miles per hour  
thence . . . . . 0.49 miles at 35 miles per hour  
Ending at West Boylston Street, the total distance being 0.94 miles.

**(12) West Boylston - Northbound Traffic**

Beginning on West Boylston Street at Gold Star Boulevard,  
thence northerly . . . . . 0.22 miles at 35 miles per hour  
thence . . . . . 0.84 miles at 30 miles per hour  
thence . . . . . 0.82 miles at 35 miles per hour  
Ending at the beginning of the State Highway, the total distance being 1.88  
miles.

**(b) NON-STATE HIGHWAY SECTIONS OF AUTO ROUTE #9**

Name of Highways:

Belmont Street                      Park Avenue  
Salisbury Street                     Main Street

**(1) Belmont Street - Westbound Traffic**

Beginning on Belmont Street, at the end of the State Highway,  
thence westerly. . . . . 0.19 miles at 30 miles per hour  
thence . . . . . 1.11 miles at 35 miles per hour  
thence . . . . . 0.29 miles at 30 miles per hour  
thence . . . . . 0.42 miles at 25 miles per hour  
Ending at the easterly side of Lincoln Square, the total distance being 2.01 miles.

**(2) Salisbury Street - Northwest Bound Traffic**

Beginning on Salisbury Street at Lancaster Street,  
thence northwesterly . . . . 0.42 miles at 30 miles per hour  
Ending at Park Avenue at junction with auto route #12 the total distance being 0.42 miles.

**(3) Park Avenue - Southwest Bound Traffic**

Beginning on Park Avenue at Mill Street, at junction with auto route #12:  
thence southwesterly . . . . 0.21 miles at 30 miles per hour  
Ending at Main Street, the total distance being 0.21 miles.

**(4) Main Street - Westbound Traffic**

Beginning on Main Street at Park Avenue  
thence westerly. . . . . 0.19 miles at 30 miles per hour  
thence . . . . . 1.25 miles at 35 miles per hour  
Ending at the Leicester Town Line, the total distance being 1.44 miles.

**(5) Main Street - Eastbound Traffic**

Beginning on Main Street at the Leicester Town Line,  
thence easterly. . . . . 1.25 miles at 35 miles per hour  
thence . . . . . 0.19 miles at 30 miles per hour  
Ending at Park Avenue, the total distance being 1.44 miles.

**(6) Park Avenue - Northeastbound Traffic**

Beginning on Park Avenue at Main Street,  
thence northeasterly . . . . 0.21 miles at 30 miles per hour  
Ending at Mill Street at junction with auto route #12, the total distance being 0.21 miles.

**(7) Salisbury Street - Southeastbound Traffic**

Beginning on Salisbury Street at Park Avenue at junction with auto route #12,  
thence southeasterly . . . . 0.42 miles at 30 miles per hour  
Ending at Lancaster Street, the total distance being 0.42 miles.

**(8) Belmont Street - Eastbound Traffic**

Beginning on Belmont Street at the easterly side of Lincoln Square,  
thence easterly. . . . . 0.42 miles at 25 miles per hour  
thence . . . . . 0.29 miles at 30 miles per hour  
thence . . . . . 1.11 miles at 35 miles per hour  
thence . . . . . 0.19 miles at 30 miles per hour  
Ending at the State Highway, the total distance being 2.01 miles.

**(c) STAFFORD STREET**

**(1) Stafford Street - Southwestbound Traffic**

Beginning on Stafford Street at a point 0.05 miles southwest of Main Street,  
thence southwesterly . . . . 0.80 miles at 35 miles per hour  
thence . . . . . 0.17 miles at 25 miles per hour  
thence . . . . . 0.43 miles at 35 miles per hour  
Ending at the Leicester Town Line, the total distance being 1.40 miles.

**(2) Stafford Street - Northeastbound Traffic**

Beginning on Stafford Street at the Leicester Town Line,  
thence northeasterly . . . . 0.43 miles at 35 miles per hour  
thence . . . . . 0.18 miles at 25 miles per hour  
thence . . . . . 0.74 miles at 35 miles per hour  
thence . . . . . 0.10 miles at 25 miles per hour  
Ending at Main Street, the total distance being 1.45 miles.

**PEDESTRIAN CONTROL REGULATIONS**

**§ 77. Crossing Ways or Roadways**

(a) Pedestrians shall obey the directions of police officers directing traffic. Whenever there is an officer directing traffic, or whenever there is a traffic control signal within three hundred feet of a pedestrian, no such pedestrian shall cross a way or roadway except at such controlled location. Pedestrian crossings shall be made within the limits of marked crosswalk and as hereinafter provided.

(b) It shall be unlawful for any person to actuate a pedestrian control signal or to enter a crosswalk unless a crossing of the roadway is intended.

**§ 78. Actuation of Traffic Control Signals**

(a) At a traffic control signal location where pedestrian indications are provided but which are shown only upon actuation by means of a pedestrian push button, no pedestrian shall cross a roadway unless or until the pedestrian control signal push button has been actuated and then cross only on the proper pedestrian signal indication. At traffic control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication for such crossing. If necessary, the green indication shall be actuated by the pedestrian by means of a push button.

(b) At a traffic control signal location, pedestrians shall yield the right of way to vehicles of a funeral or other procession or authorized emergency vehicle while in performance of emergency duties regardless of the signal indication given, and they shall not attempt to cross the roadway until such vehicles or procession has passed, at which time pedestrians shall then cross the roadway only as provided in these regulations.

**§ 79. Obedience to Traffic Control Signals**

Traffic control signal color indications and legends shall have the commands ascribed to them in this section and not other meanings, and every pedestrian shall comply therewith, except when otherwise directed by an officer.

(a) Red and yellow or the word "walk" - Whenever the red and yellow lenses are illuminated together or the single word "walk" is illuminated, pedestrians facing such indication may proceed across the roadway and in the direction of such signals only.

(b) Red alone, "wait" or "don't walk" - At locations where pedestrian indications are provided, whenever the words "wait" or "don't walk" or any indication other than red and yellow shown together are illuminated in a traffic control signal, pedestrians approaching or facing such indication shall wait on the sidewalk, edge of roadway or in the pedestrian refuge area of a traffic island and shall not enter upon or cross a roadway until the proper indication is illuminated in the traffic control signal; but any pedestrian who has partially completed his crossing on the walk indication shall either proceed or return to the nearest sidewalk or safety island on the yellow indication, the red indication, the "wait" indication or when the words "don't walk" are illuminated by rapid intermittent flashes.

(c) Green alone - At traffic control signal locations where no pedestrian indication is given or provided, pedestrians facing the signal may proceed across the roadway within any marked crosswalk in the direction of the green indication.

(d) Yellow alone, red alone, "wait" or flashing "don't walk" - pedestrians approaching or facing yellow, red, "wait" or flashing "don't walk" illuminated indications shall not start to cross a roadway.

(e) Flashing red, flashing yellow or flashing green - At any traffic control signal location where a flashing red, flashing yellow or flashing green indication is being given facing a crosswalk, pedestrians shall actuate, where provided, the pedestrian indication signal indication, and cross the roadway only on the red-yellow or "walk" indication when such indication is in operation. If no pedestrian signal is provided, pedestrians shall cross within crosswalks with due care.

#### **§ 80. Operators to Exercise Due Care**

(a) The provisions of these ordinances shall in no way abrogate the provisions of chapter 90, § 14 and 14A of the General Laws.

(b) Notwithstanding the provisions of these ordinances, every operator of a vehicle shall exercise due care to avoid colliding with any pedestrian upon the roadway and shall give warning by sounding the horn when necessary and shall exercise proper precautions which may become necessary for safe operation.

#### **§ 81. Exemptions**

The provisions of these ordinances governing the use of ways by pedestrians shall not apply to pedestrians actually engaged in work upon a roadway closed to travel or under construction or repair, by municipal, state, federal or public service corporation employees while in the performance of their duties, to officers engaged in the performance of their public duties, or to pedestrians acting in an emergency when such emergency necessitates departure from any part of these ordinances.

## CHAPTER FOURTEEN

### STREET VENDORS AND PAWNBROKERS

- § 1. Transient Vendors
  - § 2. Hawkers and Peddlers
  - § 3. Open Air Sales Vendors
  - § 4. Sidewalk Food Sales
  - § 5. Sidewalk Merchandise Sales
  - § 6. Temporary Charitable Events
  - § 7. Pawnbrokers
  - § 8. Junk Collectors
  - § 9. General Provisions
  - § 10. Sales of Food Items
  - § 11. Restrictions on Areas of Selling
  - § 12. Penalties for Violations
  - § 13. Enforcement
  - § 14. Miscellaneous Regulations
  - § 15. Limitation of Application
- 

#### § 1. Transient Vendors

(a) No person, either principal or agent, who engages in a temporary or transient business selling any goods, wares or merchandise, either in one location or in traveling from place to place, shall conduct such business within the city without first having obtained any license required under G.L. c. 101 and a local transient vendor license issued by the chief of police. Subject to law, no license shall be granted to any person who is not a citizen of the United States unless such person is authorized to work in the United States by the federal Immigration and Naturalization Service, nor shall a license be issued to any entity that is not duly registered with the Commonwealth.

(b) "Temporary or transient business" means any exhibition and sale of any goods, wares or merchandise which is carried on in any tent, booth, building or other structure, unless such location is open for business during usual business hours for a period of at least twelve consecutive months.

(c) Every license issued under this section shall be in full force and effect until the date of expiration stated on such license, and in any event, shall expire on the next January 1st, following the date of issuance, unless sooner revoked.

(d) The fee for every license issued under this § 1 of this chapter shall be two hundred dollars.

## **§ 2. Hawkers and Peddlers**

(a) No person, either principal or agent, who goes from town to town or from place to place within the city selling or bartering, or carrying for sale or barter or exposing therefor, any goods, wares, or merchandise, either on foot, or on or from any animal or vehicle, shall conduct such business within the city without first having obtained any license required under G.L. c. 101 and a local hawkers and peddlers license issued by the chief of police.

(b) Subject to law, no license shall be granted to any person who is not a citizen of the United States unless such a person is authorized to work in the United States by the federal Immigration and Naturalization Service, nor shall a license be issued to any entity that is not duly registered with the Commonwealth.

(c) Every license issued under this section shall be in full force and effect until the date of expiration stated on such license, and in any event, shall expire on the next May 1st following the date of issuance, unless sooner revoked.

(d) The fee for licenses issued under this section to hawkers and peddlers of meat, butter, cheese, fish and fresh fruit or vegetables, and who have not obtained a license from the commonwealth, shall be fifty-four dollars. There shall be no fee for any other license issued under the provisions of this section.

(e) The provisions of this section relating to hawkers and peddlers shall not apply to wholesalers or jobbers selling to dealers only, nor to commercial agents or other persons selling by sample, lists, catalogues, or otherwise for future delivery, nor to any person who peddles only fish obtained by his own labor or that of his family, or fruits, vegetables or other farm products raised or produced by himself or his family. However, such persons shall comply with all other applicable provisions of this chapter.

## **§ 3. Open Air Sales Vendors**

(a) No person, either principal or agent, who sells from a fixed or temporary location and who is not required to be licensed under G.L. c. 101 as a transient vendor or a hawker and peddler, shall vend, sell, dispose of, or display any goods, wares, or merchandise upon any public or private sidewalk, street, alley, passageway, or anywhere else within the city without first having obtained a license from the commissioner of public works.

(b) Subject to law, no license shall be granted to any person who is not a citizen of the United States unless such a person is authorized to work in the United States by the federal Immigration and Naturalization Service, nor shall a license be granted to any entity that is not duly registered with the Commonwealth; provided, however, that this section shall not apply to the selling of goods, wares and merchandise on the Worcester Common by organizations authorized to do so in writing by the commissioner of parks.

(c) Every license issued under the provisions of this section shall be in full force and effect until the date of expiration stated on such license, and in any event, shall not be valid for a period in excess of thirty days from the date of issuance, unless sooner revoked.

(d) The fee for every license issued under the provisions of this section shall be two hundred fifty dollars.

(e) At or prior to the date of the hearing on a license applied for under the provisions of this section, the vendor shall obtain an insurance policy for personal injury and property damage in the amount of \$100,000.00 per person and \$300,000.00 per incident. This insurance policy shall name the city as an additional named insured party.

(f) The issuance of a license under this section is conditioned upon the vendor's agreement to hold the city harmless from any and all causes of action which arise from the vendor's conducting of business.

(g) The provisions of this section shall not apply to any person licensed under section five of this chapter.

#### **§ 4. Sidewalk Food Sales**

(a) No person, either principal or agent, shall extend his or her restaurant sales and displays onto the public or private sidewalk adjoining said restaurant without first having obtained a license under the provisions of section three of this chapter. A restaurant may not be extended onto any street, way, alley, or other passageway.

(b) No license shall issue under this section unless the applicant shall have (1) received a permit from the **director of public health\*** authorizing the sale and display of food and beverage items on sidewalks; and (2) if applicable, has received a permit or license from the License Commission allowing the sale, display, and consumption of alcoholic beverages on sidewalks.

**\*Amended October 8, 2002 -8259**

#### **§ 5. Sidewalk Merchandise Sales**

(a) For the purpose of this section, "merchant" shall be defined as a person who operates a business out of a building located in the city which the person owns or in which he rents space. The merchant shall conduct business in the building not less than two hundred fifty days a year.

(b) No merchant shall vend, sell, dispose of, or display the goods, wares or merchandise on tables or racks placed on the sidewalk directly in front of the building in which his or her business is located without first obtaining a license from the commissioner of public works. Subject to law, no license shall be granted to any person who is not a citizen of the United States unless such a person is authorized to work in the United States by the federal Immigration and Naturalization Service nor shall any license issue to any entity that is not duly registered with the Commonwealth.

(c) Every license issued under this section shall be in full force and effect until the next January 1st following the date of issuance, unless sooner revoked. The license shall be in affect for a period of not more than one year.

(d) The fee for every license issued under this section shall be two hundred dollars. This fee shall be used by the Worcester Chamber of Commerce, with the approval of the city manager, for general advertising and promotion of the merchants.

(e) Every license issued under this section shall entitle a merchant to conduct a sale on a sidewalk, as described in subsection (b) above, for a maximum of thirty-three days during a calendar year. The merchant shall advise the police department of his or her intent to conduct such a sale prior to or on the day of the sale and shall have a licensing inspector at the police department check-off and initial the license in the appropriate space to indicate the number of times the merchant has conducted such sales.

(f) The issuance of a license under this section is conditional upon the merchant's agreement to hold the city harmless from any and all causes of action which arise from the merchant's conducting a sidewalk sale.

(g) At or prior to the date of the hearing on a license applied for under the provisions of this section, the merchant shall obtain an insurance policy for personal injury and property damage in the amount of \$100,000.00 per person and \$300,000.00 per incident. This insurance policy shall name the city as an additional named insured party. This subsection shall not apply to merchants who conduct the sales on sidewalks solely on their own property.

(h) Notwithstanding any provision in this section to the contrary, the commissioner of public works may issue a license to any not-for-profit corporation organizing a "street fair" where vendors will sell goods, wares and merchandise, including food and non-alcoholic beverages, for a period of no more than five consecutive days on any public street in the city on such terms and conditions as the commissioner may require; provided that, the commissioner of public works and chief of police approve in writing of the closure of that portion of the public street providing the location of the fair. The fee for any license granted by the commissioner of public works under this section shall be two hundred dollars.

## **§ 6. Temporary Charitable Events**

(a) The provisions of this chapter requiring licenses for transient vendors, hawkers and peddlers or open air sales vendors shall not apply to sales conducted under the control of any:

(1) organization engaged in charitable work; or,

(2) incorporated organization of veterans who served in the military or naval service of the United States in time of war or insurrection; or,

(3) department, board, commission, agency, authority or officer of the city; if such charitable organization, veterans organization or city department, etc., has received a special license from the chief of police under authority of this section.

(b) Any special license issued by the chief of police under this section shall authorize any such organization described above to conduct such sales for a particular time period not to exceed a total of four days and shall state the charitable purposes for such license.

(c) For purposes of this section, an organization shall be considered as engaged in charitable work if it is:

(1) organized for a purpose specified in § 4 of G.L. c. 180; and,

(2) eligible for the property tax exemption found in § 5 (third) of G.L. c. 59; and,

(3) qualified as charitable and income tax exempt under the Internal Revenue Code, 26 U.S.C. §§ 170(c) and 501(c)(3).

(d) The chief of police shall require any organization seeking a license under this section to submit not less than thirty days prior to the first day of the event the names and addresses of vendors who are to make sales under the control of the organization licensed under this section.

(e) Every organization applying for a license under this section shall identify the geographical area within which the organization proposes that its vendors are to make sales and shall demonstrate to the satisfaction of the chief that the organization will have control over said area during the proposed event either through ownership of the site, or by lease, license, permit or other authority. Every license issued under this section shall specify the geographic area within which the organization's vendors are to make sales, such area shall either be the area proposed by the organization or an area designated by the chief of police in the license.

(f) No vendor making sales under a license issued pursuant to this section shall make or attempt to make any sales outside of the area approved for such sales under this ordinance. Violation of this provision shall be punishable by a fine of two hundred dollars with each such sale or attempted sale constituting a separate offense.

(g) No otherwise licensed transient vendor, hawker and peddler or any other person not identified in the license issued by the chief of police under this section shall make or attempt to make any sales in any area subject to a license issued under this ordinance, or on any way open to the public use within 500 feet of any entrance thereto. Violation of this provision shall be punishable by a fine of two hundred dollars with each such sale or attempted sale constituting a separate offense.

(h) The chief of police may adopt and enforce such rules and regulations as he deems necessary or prudent to implement this section, or may issue such special licenses with additional conditions, as the chief deems necessary or prudent to preserve the peace and good order.

(i) Notwithstanding the provisions of section of this chapter, the fee for a special license issued under this section shall be two hundred fifty dollars regardless of the number of individual vendors operating under the control of the organization holding the special license.

## **§ 7. Pawnbrokers**

(a) No person shall carry on a business of a pawnbroker or keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles (hereinafter "pawnbroker") without a license issued by the chief of police. The fee for such a license shall be one hundred dollars.

(b) No person who does not maintain a permanent place of business in the city shall deal in old metals unless he or she has furnished to the chief of police a bond in such sum as the chief of police may by regulation require. Said bond shall be executed by the dealer of the old metals and by a surety company authorized to do business within the commonwealth or by the dealer of old metals and by two good and sufficient sureties approved by the chief of police. Said bond shall be payable to the city, for the benefit of any person aggrieved, and shall be conditioned upon the faithful observation by the licensee of all applicable statutes, ordinances, and regulations. Any person

so aggrieved may bring suit on the bond in his or her own name; provided, however, that the aggregate liability of the surety to all such persons shall, in no event, exceed the sum of such bond. Any license issued hereunder shall be deemed revoked whenever the bond filed by any dealer ceases to be in full force and effect.

(c) Every pawnbroker or keeper of a shop described in this section shall keep a book, in which shall be written at the time of receiving any article as a pawn, or purchasing any article, a description of the same, the name, age and residence of the person from whom purchased, and the day and hour when he received or purchased it. Such book at all times shall be open to the inspection of the city manager, the chief of police and any person authorized by either of them to make such inspections.

(d) No person licensed under this section shall, directly or indirectly, receive any article in pawn, or purchase any article from any minor or apprentice, knowing or having reasonable cause to believe him to be such, nor sell any article purchased or received until at least thirty days from the date of its purchase or receipt have elapsed; provided, however, that said retention period shall be seven days in the case of purchase of old metals, and provided further that the chief of police may, upon a proper showing of the origin of said old metal, reduce said retention period to four days.

(e) All articles received in pawn or purchased by person licensed under the provisions of this section may be examined by the city manager, the chief of police, or any person authorized by them to make such examination, at all times.

(f) All licenses granted under this section shall designate the place where the person licensed may carry on such business, and no person shall engage in or carry on such business in any other place than the one designated.

(g) The provisions of this section shall be deemed to be incorporated into every license which is granted under it.

#### **§ 8. Junk Collectors**

(a) No person shall go about the city gathering, collecting or dealing in junk, secondhand articles, bottles, clothes or rags without first being licensed therefor by the chief of police. The fee for every such license shall be a fee of fifty dollars.

(b) Every person so licensed shall wear in plain sight a badge bearing the number of his or her license thereof, in figures of not less than one-half inch in height.

(c) No person licensed under the provisions of this section shall purchase any article from any minor, knowing or having reasonable cause to believe that such person is a minor.

#### **§ 9. General Provisions**

(a) Every license issued under the provisions of this chapter shall contain the name, residential address, and business address of the licensee; the location of the site where the sales will be conducted; a description of the goods, wares, or merchandise being sold; the names and residential addresses of any persons who will be assisting the licensee with conducting business at the site; and if applicable, the vehicle identification number and

description of any vehicles used by the licensee in conducting business at the site. The licensee shall immediately report to the appropriate licensing authority any changes in the information listed in this section.

(b) All licenses issued under the provisions of this chapter shall be displayed by the vendor in a conspicuous place and manner at the sales site.

(c) Any license issued under the provisions of this chapter may not be transferred or assigned to any other person, or used by any person other than the person to whom it had been issued.

(d) Any vendor required to be licensed under this chapter or hawker or peddler not required to be licensed under this chapter, shall be subject to all applicable provisions herein, regardless of whether said vendor's sales location is on public or private property.

(e) Any violation of any provision of this chapter shall result in the immediate termination of the activity conducted under the license until such time as a hearing has been held by the license commission on the possible revocation of the license. Such hearing shall be held within fifteen days of the alleged violation.

#### **§ 10. Sales of Food Items**

(a) No license shall issue under the provisions of this chapter to any vendor selling meat, butter, cheese, fish and fresh fruit or vegetables, or other foods and beverages, who has not received a permit from the **director of public health\*** allowing such sales.

**\*Amended October 8, 2002 -8259**

(b) No license shall issue under the provisions of this chapter to any vendor selling meat, butter, cheese, fish, fresh fruit or vegetables, or other foods and beverages who has not received a certificate from the sealer of weights and measures of the city to the effect that all weights, scales and measures to be used by the vendor in the sale of such foods and beverages have been tested and sealed according to law.

(c) Meat, butter, cheese, fish, fresh fruit or vegetables, or other foods and beverages carried and conveyed by a vendor licensed under the provisions of this chapter shall be so carried and conveyed that they shall not tend to injure or annoy the public health or comfort, and only in vehicles or receptacles which are neat and clean.

#### **§ 11. Restrictions on Areas of Selling**

Any vendor licensed under the provisions of this chapter or hawker or peddler not required to obtain a license under this chapter, shall not sell foods, beverages, goods, wares, or merchandise in the following areas:

(a) Upon Main Street between Foster and Federal Streets except during certain parades and other special occasions when special permission has been granted by the licensing authority;

(b) Upon Foster Street, Commercial Street, Worcester Center Boulevard, Exchange Street, Central Street, Front Street, Franklin Street, in front of the Worcester Common Fashion Outlet, or on private property that is contiguous to

such streets on those days when events are scheduled at **Worcester's Centrum Centre\***.

**\*Amended June 9, 1998 - 7456**

(c) Upon city parks land without the written permission of the commissioner of parks;

(d) Upon private property without the written permission of the owner of said property.

(e) Upon Highland Street, from Lincoln Square west to Harvard Street; upon Harvard Street north to Institute Road, upon Institute Road, east to Salisbury Street; and upon Salisbury Street south to Highland Street at Lincoln Square or on any public or private property contiguous to the aforementioned area on those days when events are scheduled at the Auditorium. This restriction shall not apply to any vendor, hawker or peddler who can establish to the satisfaction of the licensing authority that his/her business operation, at a location within the area described above, predates the original effective date of this section.

#### **§ 12. Penalties for Violations of this Chapter**

Any person, corporation, or other entity violating the provisions of this chapter shall be penalized in accordance with the schedule listed below, and for each, a separate offense shall be deemed committed on each day during or on which a violation occurs or continues:

(a) Violations of § 1 of this chapter shall be punishable by a fine of fifty dollars or by imprisonment for not more than two months, or both;

(b) Violations of § 4 of this chapter shall be punishable by a fine of two hundred dollars; and

(c) Violations of any other provisions of this chapter shall be punishable by a fine of:

(1) Fifty dollars for all vendors defined as transient vendors;

(2) Twenty dollars for all vendors defined as hawkers and peddlers regardless of whether or not the vendor is required to obtain a license under this chapter; and

(3) Two hundred dollars for all other vendors.

#### **§ 13. Enforcement**

The provisions of this chapter shall be enforced by the police department and may be enforced by the **director of public health\***.

**\*Amended October 8, 2002 -8259**

#### **§ 14. Miscellaneous Regulations**

Any vendor licensed under the provisions of this chapter or hawkers and peddlers not required to obtain a license under this chapter, shall conduct business in accordance with the following regulations:

(a) Applications for any license required by this chapter shall be filed no later than two weeks prior to the desired sales date.

(b) The foods, goods, wares, or merchandise being sold or displayed shall be placed upon racks or tables which are clean, sturdy, and in good condition. The tables shall be covered with a clean linen cloth or clean plastic covering when foods or other edible goods are being sold or displayed.

(c) The total sales area shall not be larger than twenty-five square feet, unless the licensing authority approves a larger sales area.

(d) For sales occurring on sidewalks, a minimum clearance of four feet of sidewalk shall be maintained between the street and the sales area to ensure the safe passage of pedestrians.

(e) For sales occurring on sidewalks, no sales area shall occupy more than forty percent of the width of the sidewalk.

(f) No street, sidewalk, crosswalk, curb, passageway, handicap access ramp, storefront, or alley shall be blocked by any foods, goods, wares, or merchandise offered for sale or displayed hereunder. Such sales shall not be operated in any manner which would cause a nuisance, create a fire hazard, or diminish the public safety.

(g) The foods, goods, wares, or merchandise being offered for sale or displayed hereunder shall be securely and adequately placed so that they will not endanger passersby, or fall or extrude into or over any crosswalk, curb, passageway, handicap access ramp, storefront, or alley.

#### **§ 15. Limitation of Application**

The provisions of this chapter apply only to those circumstances specified hereunder and this chapter shall in no way infringe upon or affect the authority of the commissioner of public works over public streets, sidewalks, and ways for all other ordinances, rules and regulations.

**CHAPTER FIFTEEN**

**FINES AND PENALTIES**

**§ 1. General Penalty for Violation of Ordinances**

**§ 2. Non-Criminal Disposition**

**§ 3. Disposition of Fines and Penalties**

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**§ 1. Penalty for Violation of Ordinances**

Any person violating the provisions of any section of these Revised Ordinances, the prohibitions or mandates of which pertain to all or any part of the general public, where no specific penalty is stated shall, upon conviction, be fined not less than twenty-five dollars nor more than three hundred dollars for each offense. Each day on which any violation exists shall be deemed to be a separate offense.

**§ 2. Non-Criminal Disposition**

(a) Whoever violates any provision of these Revised Ordinances, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in General Laws, chapter 40, § 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

(b) Without intending to limit the generality of the foregoing, it is the intention of this provision that the following ordinances, rules or regulations are to be included within the scope of this subsection, that the specific penalties as listed hereunder shall apply in such cases, and that in addition to the chief of police and police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the city officers, including their subordinates and designees, listed below for each ordinance, rule or regulation, shall also be enforcing persons for such ordinances, rules or regulations. Nothing herein shall limit or restrict any enforcing person's authority to seek criminal prosecution of any violation of any ordinance, rule or restriction listed herein. Each day on which any violation exists shall be deemed to be a separate offense.

(i) alarm system regulations of the police department adopted pursuant to chapter 9, §§ 9-12.

(a) false alarms:

2nd false alarm in 12 month period	\$ 25.00
3rd false alarm in 12 month period	\$ 25.00
4th false alarm in 12 month period	\$ 50.00
5th and subsequent false alarm in 12 month period	\$100.00

- (b) failure to provide current list of responders \$ 25.00
- (c) failure to install automatic shut off device \$ 25.00
- (d) alarm causing a public nuisance \$ 25.00
- (e) improper testing \$ 25.00
- (ii) **temporary metal fencing requirement - Revised Ordinances, chapter 8, S5. \***  
penalty: \$100.00  
enforcing person: director of code enforcement

**\*Amended October 8, 2002 - 8259**

- (iii) Board of Health regulations adopted pursuant to §§ 31, 31B and 155 of chapter 111 of the General Laws.  
penalty: \$100.00  
enforcing persons: **director of public health and director of code enforcement \***

**\*Amended October 8, 2002 - 8259**

- (iv) dumping on public or private property in violation of Revised Ordinances chapter 8, § 6.  
penalty: noncriminal disposition penalty - \$200.00  
enforcing persons: **director of public health, commissioner of code enforcement, commissioner of public works\***

**\*Amended October 8, 2002 - 8259 and Amended September 30, 2003 - 8392**

- (v) violation of any provisions of the Zoning Ordinance - Appendix D of the Revised Ordinances.  
penalty: \$100.00  
enforcing person: director of code enforcement
- (vi) violation of any condition of any special permit or variance - Appendix D of the Revised Ordinances.  
penalty: \$100.00  
enforcing person: director of code enforcement
- (vii) violation of any regulations of the Airport Commission adopted pursuant to § 51J of chapter 90 of The General Laws.  
penalties:  
a) parking regulations \$ 25.00  
b) all other regulations \$100.00  
enforcing person: airport commission

- (viii) violation of ordinances regulating streets and sidewalks.
- (a) failure to remove snow from sidewalks - chapter 12, § 23.
- penalty: \$ 25.00  
enforcing person: commissioner of public works
- (b) placing snow or directing water on street - chapter 12, § 24.
- penalty: \$100.00  
enforcing person: commissioner of public works
- (c) obstructing a sidewalk - chapter 12, § 25.
- penalty: \$ 25.00  
enforcing person: commissioner of public works
- (d) engaging in any prohibited activity on a public street -chapter 12, § 26.
- penalty: \$ 25.00  
enforcing person: commissioner of public works
- (e) washing, greasing or performing non-emergency repairs on motor vehicles parked in the street - chapter 13, § 48.
- penalty: \$ 25.00  
enforcing person: commissioner of public works
- (f) violation of the newsrack ordinance as specified in chapter 11, § 7.
- penalty: \$200.00  
enforcing person: commissioner of public works, and the license commission
- (g) **Maintaining any encroachment on the public ways - chapter 12 S21.**
- penalty: \$ 25.00  
enforcing persons: commissioner of public works, commissioner of code enforcement; director of code enforcement, commissioner of public health, director of public health, any duly authorized member of the department of public health or the department of code enforcement, and, any other officer or employee of the city specifically authorized in writing by the city manager.\*

\*Amended September 9, 2003 - 8361

- (ix) violation of ordinances involving public utilities.
- (a) removing or repairing a water meter - chapter 7, § 21.

penalty: \$ 25.00  
enforcing person: commissioner of public works

(b) opening a street without a permit - chapter 8, § 11

penalty: \$ 25.00  
enforcing person: commissioner of public works

(c) opening, connecting to, or disturbing any public sewer or storm drain without a permit - chapter 5, § 2.

penalty: \$200.00  
enforcing person: commissioner of public works

(d) making a connection or repairs to a public water main - chapter 7, § 27.

penalty: \$200.00  
enforcing person: commissioner of public works

(e) failure to replace or maintain a disturbed or removed portion of a street or sidewalk in a safe and suitable condition - chapter 12, § 18.

penalty: \$200.00  
enforcing person: commissioner of public works

(f) failure to comply with § 16(b) of chapter 7 relative to the requirements and restrictions imposed as part of an emergency water conservation plan adopted under a state of water emergency declared under G.L. c. 21G, sec. 15, or G.L. c. 40, sec. 41A.

penalty: Emergency State

	I	II	III	IV
1st offense	\$0	\$0	\$100.00	\$100.00
2nd offense	\$0	50.00	\$200.00	\$200.00
3rd offense	\$0	\$100.00	\$200.00	\$200.00
Subsequent	\$0	\$200.00	\$200.00	\$200.00

enforcing person: commissioner of public works

(x)(a) violation of any section of chapter 10 of the Revised Ordinances.

penalty: \$200.00  
enforcing person: chief of the fire department

(b) violation of any provision of chapter 10, § 12, or the alarm system regulations of the fire or communications departments.

(1) false alarms:

penalties:

4th false alarm in 6 month period \$ 25.00

5th false alarm in 6 month period	\$ 50.00
6th false alarm in 6 month period	\$ 75.00
7th false alarm in 6 month period	\$100.00
8th false alarm in 6 month period	\$125.00
9th and any subsequent false alarm in 6 month period	\$150.00

- (c) violation of any fire regulation adopted pursuant to § 10 of chapter 148 of the General Laws.
- penalty: \$100.00  
enforcing person: chief of the fire department
- (d) violation of §§ 22 or 23 of chapter 143 of the General Laws: obstruction of fire escapes and stairways.
- penalty: \$100.00  
enforcing person: chief of the fire department
- (e) violation of any provision of the Fire Prevention Code - Appendix F of the Revised Ordinances.
- Penalty \$100.00  
enforcing person: chief of the fire department
- (f) violation of section 13 or 14 of chapter 269 of the General Laws - false alarms of fires or explosives.
- penalty: \$100.00  
enforcing person: chief of the fire department
- (g) violation of section 32 or 32A of chapter 268 of the General Laws - interference with fire signals or fire fighting operations.
- penalty: \$100.00  
enforcing person: chief of the fire department
- (h) violation of section 13A of chapter 266 of the General Laws - duty of hotel manager in case of fire.
- penalty: \$100.00  
enforcing person: chief of the fire department
- (i) violation of section 27B of chapter 148 of the General Laws - piling snow on fire hydrants.
- penalty: \$100.00  
enforcing person: chief of the fire department
- (xi) sale of tobacco products without a tobacco sales permit - chapter eight, § 3(e)(1)**
- penalty: 100.00**  
**enforcing person: director of public health\***

\*Amended April 30, 1996 - 6934, August 17, 1999 - 7701 and October 8, 2002 - 8259

(xii) violation of any provision of the tobacco control ordinance, chapter eight, § 3, except subsection (e)(1)

penalty:

first offense	\$100.00
second offense	\$200.00
third and each subsequent offense	\$300.00

enforcing persons: director of public health; director of code enforcement\*

\*Amended April 30, 1996 - 6934, August 17, 1999 - 7701 and October 8, 2002 - 8259

(xiii) violation of rules and regulations of the parks and recreation department adopted pursuant to G.L. 45

penalty: \$25.00 - first offense  
\$50.00 - second offense  
\$100.00 - third and subsequent offense

enforcing person: parks commissioner

(xiv)\* violation of any rule or regulation issued by the commissioner of public works pursuant to chapter 4 of the Revised Ordinances regarding the recycling and disposal of solid waste.

penalty: \$25.00  
enforcing persons: director of code enforcement,  
commissioner of public works

\*Amended October 8, 2000 - 8259 and Amended September 30, 2003 - 8390

xv) violation of any provision of the rules and regulations of the License Commission

penalty:

first offense:	\$100.00
second and subsequent offenses	\$200.00

enforcing person: license commission, fire chief, police chief, director of public health and director of code enforcement\*

\*Amended October 8, 2000 - 8259

(xvi) violation of chapter 14, §§ 1-6, of the Revised Ordinances:

penalty: \$50.00 violation chapter 14, § 1(a)

\$200.00 violation chapter 14, § 1(c)  
\$100.00 violation all other provisions of  
chapter 14

**enforcing person: chief of police, director of public health\***

**\*Amended October 8, 2000 - 8259**

(xvii) violation of construction debris disposal chapter 8, § 7  
penalty: \$100.00

**enforcing person: director of code enforcement\***

**\*Amended October 8, 2000 - 8259**

(xviii) violations of chapter 10, §§ 6 and 7 of the Revised Ordinances:

penalty: \$100.00 violation of chapter 10, § 6  
\$100.00 violation of chapter 10, § 7

enforcing person: police chief, fire chief

(xix) violation of chapter 6 of the Revised Ordinances or violations of the wetland regulations of the Conservation Commission

penalty \$100.00

**enforcing person: director of public health; department of code enforcement\***

**\* Amended October 8, 2000 - 8259**

(xx) violation of chapter 8, § 8, regulating commercial metal containers

first offense in a calendar year . . . . . \$ 25.00  
second offense in a calendar year . . . . . \$ 50.00  
third offense in a calendar year . . . . . \$100.00  
fourth and each subsequent offense in  
a calendar year . . . . . \$200.00

**enforcing persons: director of public health; director of code enforcement; fire chief\***

**\*Amended October 8, 2000 - 8259**

(xxi) violation of chapter eight, S9A, regulating the storage of unregistered motor vehicles - (Ordained February 4, 1997 - 7186)

penalty:

first offense in a calendar year . . . . \$ 50.00

second offense in a calendar year. . . . \$ 75.00  
third offense in a calendar year . . . . \$100.00  
fourth and each subsequent offense  
in a calendar year . . . . . \$150.00

**enforcing person: director of code enforcement; police chief\***

**\*Amended November 26, 2002 - 8291**

(xxii) Violation of any provision of the Noise Ordinance, Revised Ordinances chapter 9, § 1A. **(Ordained January 6, 2004 - 8388)**

Penalty: noncriminal disposition penalty - \$50.00

Enforcing persons: director of public health, commissioner of code enforcement, commissioner of public works; any other official or employee of the city designated in writing by the city manager.

(xxiii) Violation of the rules and regulations issued by the chief of police for taxicab service, Revised Ordinances Chapter 11 §16 and for livery service, Chapter 11 §17. **(Ordained October 18, 2005 - 8698)**

Penalty:  
First Offense \$100  
Second Offense \$200  
Third of Subsequent Offenses \$300

Enforcing person: the chief of police or any officer of the Worcester police department

(xxiv) Violations of abandoned shopping cart ordinance, chapter nine, section fifteen: **(Ordained January 31, 2006 - 8756)**

(a) Removal of a shopping cart from the property of the owner:

penalty: \$25.00

(b) Establishment allowing any shopping carts to remain unsecured in its parking lot after business hours:

penalty: \$100.00 (each occurrence)

(c) Abandoning a shopping cart in any public place other than the property of the establishment:

penalty: \$25.00

(d) Establishment failing to mark its shopping carts as per subsection (g) of chapter nine, section 15:

penalty: \$100.00 (each occurrence)

(e) Establishment failing to post signs as per subsection (h) of chapter nine, section 15:

penalty: \$100.00 (each occurrence)

(f) Establishment failing to implement a shopping cart theft deterrent system within 180 days of the adoption of chapter nine, section 15:

penalty: \$300.00 (each occurrence)

Enforcing persons: Commissioner of Public Works and Parks, Commissioner of Health and Human Services.

(xxv) violation of chapter 8, Section 9A, regulating the feeding or baiting of waterfowl - **(Ordained April 25, 2006 - 8804)**

penalty:

first offense	\$25.00
second offense (w/in a calendar year)	\$50.00
third offense or subsequent offenses (w/in a calendar year)	\$100.00

enforcing persons: director of public health; assistant commissioner of parks.

(xxvi) Violation of any provision of the Nuisance Ordinance, Revised Ordinance chapter 8, § 42. - **(Ordained October 16, 2007 - 9075)**

Penalty: non-criminal disposition penalty:

first violation:	\$50.00
second violation:	\$100.00
third violation:	\$200.00
fourth and each subsequent violation:	\$300.00

Enforcing persons: commissioner of the department of health and human services; fire chief; director of code enforcement; and any other official or employee of the city designated in writing by the city manager.

(xxvii) Violation of any provision of the Graffiti Ordinance, Revised Ordinances chapter 8, § 43. - **(Ordained October 16, 2007 - 9073)**

Penalty: noncriminal disposition penalty - \$25.00

Enforcing persons: commissioner of the department of health and human services; any other official or employee of the city designated in writing by the city manager.

(xxviii) Violation of any provision of the Revised Ordinances of 1996 chapter 8, § 9C - **(Ordained January 22, 2008 - 9113)**

Penalty: \$25.00

Enforcing persons: director of code enforcement

**§ 3. Disposition of Fines and Penalties**

All fines and penalties for the violation of these Revised Ordinances or any order of the city council shall, when recovered, inure to the use of the city, and be paid into the city treasury, unless otherwise directed by law or ordinance.

## **PART TWO ORGANIZATION OF CITY AGENCIES 2005**

Adopted October 18, 2005

The Original Part Two before being replaced was amended April 2, 1996 - 6930, November 12, 1996 - 7146, December 17, 1996 - 7152, January 6, 1998 - 7350, March 23, 1999 - 7595, January 11, 2000 - 7776, August 22, 2000 - 7931, November 14, 2000 - 7982, February 27, 2001 - 8054, June 11, 2002 - 8229, October 8, 2002 - 8259, June 10, 2003 - 8354, June 24, 2003 - 8356.

The Original Part Two was replaced in its entirety on December 21, 2004 - 8607.

Part Two was again replaced in it's entirety on October 18, 2005 - 8607. This Part Two was amended by 8704 - November 15, 2005 and 9051 - August 14, 2007.

Part Two was replaced in it's entire on March 11, 2008 and effective on July 1, 2008 - see Ordinance #9118

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Executive Office of the City Manager" ("office").

**§ 2. Function**

It shall be the function of the office to assist the city manager in the exercise the authority and responsibilities vested in the city manager by the city charter, the city council or any other source of law by providing an organizational, budgetary and administrative unit for the personnel assigned as the immediate staff of the city manager, for the property, real and personal placed under the care, custody and control of the city manager and for the appropriations made to fund the operations of the office of city manager as well as such other activities, personnel, property and appropriations not specifically assigned to another city agency, department or division.

**§ 3. Head of the Executive Office**

The office shall be headed by the city manager ("city manager"). The city manager may assign, in whole or in part, the duties and responsibilities of the head of the office of executive office to such other person as the city manager so chooses and who shall perform such duties and responsibilities at the pleasure of the city manager.

**§ 4. Authorities & Responsibilities of the Executive Office**

The city manager, or such other person and he or she shall designate from time to time as the head of the executive office, shall have the following authority and responsibilities:

- (1)management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the office, including, without limitation:
  - (A)to act as the legislative liaison of the city by preparing the annual legislative agenda of the city and monitoring the progress of legislation approved by the city council;
  - (B)to develop and administer the marketing program of the city and to promote Worcester as a place for conventions, tourism and travel; to administer the "Destination Worcester" marketing program and such other programs concerning the

marketing of the city of Worcester to meeting and convention planners, event and sports organizers and tourists and visitors;

(C) to assign any employee otherwise under the jurisdiction of the city manager to the interim management and operation of any agency of the city under the jurisdiction of the city manager.

- (2) supervision of the personnel in the office by establishing rules, policies and practices governing the operations of the office; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the office; evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level including suspensions and removals;
- (3) care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the office by the city manager and the city council;
- (4) management of the budget for the office, which shall include ordinary maintenance, salary and capital expenditures; and,
- (5) all such other authority as may be necessary and proper in the performance of the duties and responsibilities vested in the city manager by the city charter, the city council or any other source of law or as may be inherent in the exercise of the power, rights and duties, other than legislative, commonly associated with municipal chief executive or administrative officers.

## **§ 5. Authorized Positions**

(a) *Table of Authorized Positions.* The office shall consist of the city manager and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the office shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

(c) *Duties & Responsibilities of Personnel Assigned to the Office.* In order to respond to the needs of the city and the demands of the office of city manager, the city manager may assign duties and responsibilities to the personnel assigned to the office as the city manager deems in the best interests of the city and the individuals assigned to the office shall perform such tasks and functions as may be requested by the city manager. Unless otherwise directed by the city manager, individuals assigned to the office shall also have the duty and responsibility to:

- (1) assist the city manager in the performance of the duties and responsibilities of the office of city manager;
- (2) manage the budget for any programs or operations placed under their responsibility by the city manager in accordance with the

- policies and requirements of the city manager, chief financial officer and the city auditor;
- (3)supervise the personnel assigned to them by assigning tasks and establishing work priorities, deadlines and work schedules for such employees; evaluating the performance of such employees in the office, recommending promotions, honors and discipline when so warranted;
  - (4)administer the implementation of contracts concerning matters under the responsibility of the office and payable from funds appropriated to the office;
  - (5)keep the city manager informed of all their activities, operations, programs, services, personnel, expenditures and receipts;
  - (6)ensure that all their actions are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the city manager;
  - (7)make recommendations to the city manager on changing or initiating any policy, operation, program or service to the public;
  - (8)prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager; and,
  - (9)maintain any personal property assigned to them by the city manager.

## **§ 6. Declarations of Emergencies**

(a) Whenever any natural disaster, heavy snow or ice storm, drought, or fire, or chemical, biological and nuclear accident or attack, or riot, mob or other act of lawlessness or civil disorder, endangers the health, safety and good order of persons or property within the city, the city manager may declare a state of emergency. Any such declaration shall state the reasons for its issuance, the geographic area governed, what property or types of property may be appropriated to respond to the specified emergency and the extent to which ordinarily lawful activity shall be prohibited or impaired. The city manager shall, as soon as practicable, transmit any such declaration to the city clerk. The city council may, by two-thirds vote, repeal, rescind or modify any such declaration.

(b) During any state of emergency as described herein, the city manager may, within the limits of the amount appropriated therefore, appoint such experts, clerks, assistants, and such personnel as the work of the department may require, and he may remove them. The city manager shall have the authority to appoint district coordinators as may be required. The city manager may make such expenditures within the appropriation therefore, or from other funds available to him, as may be necessary to execute effectively the purpose of chapter 639, Acts of 1950, or any other applicable law. The city manager may take command of any or all motor vehicles and other mechanical means of transportation, and all equipment related thereto, owned or controlled by the city or any of its departments, boards, commissions and agencies, for the duration of the state of emergency and deem such vehicles emergency vehicles.

All city employees in possession of such vehicles and equipment shall comply with the directives of the city manager regarding the use of any such vehicle.

(c) The city manager on behalf of the city shall have the authority to receive on behalf of the city, services, equipment, supplies, material or funds by way of gift, grant or loan, for purposes of civil defense, ordered by the federal or state government, or any agency or office thereof, or any person, firm or corporation, subject to the terms of the offer and the rules and regulations, if any, of the agency or entity making the offer.

(d) All references to chapter 639, Acts of 1950, shall be applicable to act or acts in amendment or continuation of or substitution for chapter 639.

Nothing in this chapter shall be deemed to limit or otherwise abridge the emergency powers or direction and control over emergency management or civil defense vested in the city manager by virtue of the Home Rule Charter, any statute or the common law.

**Article 2. Human Resources Department**

- § 1. Establishment
- § 2. Function
- § 3. Authorized Positions
- § 4. Head of Department
- § 5. Duties & Responsibilities

Related Board and Commission:

- § 6. Affirmative Action Advisory Committee
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Human Resources Department" ("department").

**§ 2. Function**

It shall be the function of the department to administer the human resources activities of the city, including personnel administration, collective bargaining, affirmative action, group insurance, employee training and education, workers compensation and injured-on-duty.

**§ 3. Authorized Positions**

The department shall consist of a director of human resources such other positions as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

**§ 4. Head of Department**

The department shall be headed by the director of human resources who shall be appointed by and shall serve at the pleasure of the city manager.

**§ 5. Duties & Responsibilities**

(a) *General Duties & Responsibilities.* The director of human resources shall be responsible for the performance of the functions of the office and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the office;
- (2) supervise the personnel in the office by establishing rules, policies and practices governing the operations of the office; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the office;

evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;

- (3) act as the legislative liaison of the city by preparing the annual legislative agenda of the city and monitoring the progress of legislation approved by the city council;
- (4) keep the city manager informed of the activities and needs of the office and provide the city manager with information developed by the office which would have a material impact on the financial condition of the city;
- (5) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service within the office;
- (6) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (7) perform such other tasks and functions as may be requested by the city manager;
- (8) ensure that all actions of the office are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America;
- (9) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the office by the city manager and the city council;
- (10) determine the priorities of the office and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (11) prepare, monitor and manage the budget for the office, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and
- (12) prepare, implement, evaluate and improve office operations, programs and projects in accordance with the goals and objectives established for the office by the city manager.

(b) *Specific Duties & Responsibilities.* The director of human resources shall:

- (1) act as the personnel administrator under authority delegated to the city by the agreement dated between the city and the department of personnel administration of the commonwealth;
- (2) plan, administer and direct all phases of the personnel plan, including wage and salary administration, position classification, sick and vacation leave, accident prevention and safety programs, physical examination program, personnel transactions and record keeping in accordance with the applicable rules and regulations, ordinances and statutes;
- (3) conduct collective bargaining on behalf of the city manager;

- (4) review and advise the chief financial officer on all departmental requests for personnel and determine before any employee shall be hired, reinstated, promoted or transferred that:
  - (A) there exists a vacant position in the table of authorized positions for such employee;
  - (B) the proposed salary for such employee is in accordance with the salary ordinance;
  - (C) there is compliance with applicable laws, including the civil service laws, rules and regulations; and,
  - (D) the city manager has approved such employment;
- (5) develop and revise personnel policies and practices and recommend same to the city manager;
- (6) advise and inform city department heads, officials and employees, and other interested parties, relative to all aspects of the human resources programs and activities;
- (7) administer the grievance procedure for employees
- (8) administer the disciplinary system of the city at all levels below the city manager or other appointing authority;
- (9) administer the personal property damage fund;
- (10) serve as the city manager's advisor on equal opportunity matters in conjunction with the city's Human Rights Commission;
- (11) train and develop city employees;
- (12) implement the policy of equal employment opportunities contained in the city affirmative action plan;
- (13) receive, review and make recommendations to the city manager on affirmative action programs, goals, objectives and timetables;
- (14) manage the activities of the city physician;
- (15) administer, review, monitor, evaluate and investigate workers' compensation claims (G.L. chapter one hundred and fifty-two) filed by city employees;
- (16) administer, review, monitor, evaluate and investigate injured-on-duty claims (G.L. chapter forty-one, section one hundred eleven F) filed by city employees;
- (17) administer the city's light duty programs;
- (18) comply with all reporting requirements of the Division of Industrial Accidents and make appropriate presentations to that division;
- (19) review all applications for disability retirements;
- (20) request the city solicitor to provide legal representation in all cases where the law requires the city to be represented by an attorney and inform the city manager in all other cases where the director of human resources believes the assistance of the city solicitor would be advisable;

- (21) monitor and evaluate the city's personnel hiring employment patterns and practices; contract compliance efforts; fair housing policies and programs; permanent jobs; program benefits; and, program accessibility for the disabled covered under § 504 of the Rehabilitation Act;
- (22) collect and analyze data relative to equal employment opportunity for city departments and local offices; compliance of contract funded in part or in whole by city funds; fair housing; permanent jobs; program benefits; and, § 504 requirements with respect to employment in all city departments and offices;
- (23) provide equal opportunity technical assistance to city department heads;
- (24) administer the affairs of the affirmative action advisory committee established under these ordinances, attend all of its meetings, summarize comments made and policy suggestions decided upon, and submit quarterly reports to the Massachusetts Commission Against Discrimination;
- (25) serve as the city manager's coordinator on § 504 of the Rehabilitation Act of 1973;
- (26) administer the group health and life insurance programs by:
  - (A) authorizing and preparing all payments of premiums and cost reimbursement to the city's insurance carriers and computing the shares due from the employees' account and the city's account and coordinating matters involving payroll deductions and cash payments with the city treasurer;
  - (B) processing and approving all changes to existing group memberships and maintaining records of such members
  - (C) administering policies and procedures related to the delivery of group health insurance benefits;
  - (D) resolving problems of group membership and coverage which may be encountered by city subscribers and processing any necessary forms to correct problems;
  - (E) providing clear and comprehensive information to employees, retirees and departments concerning their benefits and options and advising employees and retirees on matters related to group insurance;
  - (F) propose, research, evaluate and implement programs and systems concerning cost control and containment in the areas of group insurance, worker's compensation and injured on duty;
  - (G) review contract and proposals from insurance carriers and to provide recommendations to the city manager regarding rates and terms of contracts; and,
  - (H) research and envelope alternate programs of health care delivery and financing for city employees and retirees including researching and preparing legislative reform recommendations regarding state mandated programs and provisions concerning group insurance benefits.

**§ 6. Affirmative Action Advisory Committee**

(a) *Establishment of the Affirmative Action Advisory Committee.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Affirmative Action Advisory Committee" ("committee").

(b) *Membership of the Affirmative Action Advisory Committee.* The committee shall be comprised of nine members appointed by the city manager for terms of three years. The terms shall be staggered such that three terms shall expire on December 31st of each year. Nominations will be considered from organizations concerned with issues of equal opportunity in employment, housing and contract compliance, minority business enterprise, program benefits, permanent jobs and handicapped accessibility.

(c) *Duties & Responsibilities of the Affirmative Action Advisory Committee.* The committee shall:

- (1) provide the city manager annually with a report on the implementation and attainment of the goals established by the fair housing, equal employment and contract compliance plans of the city;
- (2) advise the city manager annually of its recommendations on establishing new affirmative action, equal opportunity and inclusionary programs and practices or revising such existing programs;
- (3) perform such other related duties as required by the city affirmative action program.

**Article 3. Executive Office of Economic and Neighborhood Development**

- § 1. Establishment
- § 2. Function
- § 3. Head of the Office
- § 4. Authorized Positions
- § 5. Organization of the Office
- § 6. Administration Division
- § 7. Cable Services Division
- § 8. Economic Development Division
- § 9. Neighborhoods & Housing Division
- §10. Planning and Regulatory Services Division
- §11. Workforce Development Operations Division
- §12. Workforce Investment Board Division
- §13. Youth Opportunities Division

Related Boards and Commissions:

- §14. Advisory Committee On Youth
- §15. Cable Television Advisory Committee
- §16. Cultural Commission
- §17. Historical Commission
- §18. Planning Board
- §19. Zoning Board of Appeals
- §20. Worcester Regional Airport Commission

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Executive Office of Economic & Neighborhood Development" ("office").

**§ 2. Function**

It shall be the function of the office to manage and operate the economic development, neighborhood development, housing development, workforce development, marketing and planning and regulatory services functions of the city.

**§ 3. Head of the Office**

(a) *Office Head.* The office shall be headed by an assistant city manager for economic and neighborhood development ("assistant city manager") who shall be designated by, and serve at the pleasure of, the city manager.

(b) *Duties & Responsibilities.* The assistant city manager shall be responsible for the performance of the functions of the office and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the office;

- (2) supervise the personnel in the office by establishing rules, policies and practices governing the operations of the office; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the office; evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3) keep the city manager informed of the activities and needs of the office and provide the city manager with information developed by the office which would have a material impact on the financial condition of the city;
- (4) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service within the office;
- (5) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (6) perform such other tasks and functions as may be requested by the city manager;
- (7) ensure that all actions of the office are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America;
- (8) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the office by the city manager and the city council;
- (9) determine the priorities of the office and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (10) prepare, monitor and manage the budget for the office, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;
- (11) prepare, implement, evaluate and improve office operations, programs and projects in accordance with the goals and objectives established for the office by the city manager; and,
- (12) administer the executive functions of the Worcester Redevelopment Authority in accordance with the directives of the city manager and the by-laws of that agency.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The office shall consist of the assistant city manager and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the office shall be filled

by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

## **§ 5. Organization of the Office**

(a) *Establishment of Divisions.* The office shall be organized into the following divisions for the following purposes:

*Administration Division* - to assist the assistant city manager in the performance of the duties and responsibilities as the of the head of the office;

*Cable Services Division* - to administer the cable television franchise agreement, disburse funds received by that agreement, operate the government access channel and administer the affairs of the cable television advisory committee as established and authorized under these ordinances;

*Economic Development Division* - to administer the economic development agenda and programs of the city; to promote, develop and expand investment and employment in the city; to secure the commitment of private capital into new or existing businesses in the city; and, to administer and coordinate all federal, state and local programs involving the preparation of property for real estate development through the remediation or removal of contaminated buildings, soils or substances;

*Neighborhoods & Housing Division* - to develop and administer programs to improve the quality of life in the neighborhoods of the city, including the policies of the city on housing and homelessness; and, to administer the cultural commission as established and authorized under these ordinances;

*Planning & Regulatory Services Division* - to provide all city departments with master planning, neighborhood planning and project planning and analysis and to administer, advise and assist the planning board, zoning board of appeals and historical commission in the performance of their public responsibilities;

*Workforce Development Operations Division* - to operate one or more comprehensive customer-focused workforce investment and training centers known as "one-stop career centers" as that term is defined herein and to perform such other functions as may be authorized by federal or state laws or regulations consistent with such operations;

*Workforce Investment Board Division* - to provide administrative support services to the local workforce investment act board as the same is established and regulated by the Workforce Investment Act (Public Law 105-220; see 29 U.S.C. § 2801 *et seq.*, the "Act"), as the Act may be amended or superseded, and to provide the city manager with information and forecasts concerning employment, unemployment, employer needs and economic activity; and,

*Youth Opportunities Division* - to coordinate the provision of multiple government-based services and programs to local youth and to collaborate and coordinate with existing non-governmental organizations and agencies.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division of the office, the head of each division shall also have the duty and responsibility to:

- (1) assist the assistant city manager in the performance of the duties and responsibilities of the head of the office and perform such other duties as may be assigned or requested by the assistant city manager or otherwise prescribed by law;
- (2) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the assistant city manager;
- (3) supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level authorized by the assistant city manager up to and including suspensions for no more than five working days;
- (4) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5) keep the assistant city manager informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6) recommend to the assistant city manager implementing the rules, policies and practices governing the operations of the office as are approved by the assistant city manager;
- (7) prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the assistant city manager;
- (8) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the assistant city manager;
- (9) make recommendations to the assistant city manager on changing or initiating any policy, operation, program or service to the public;
- (10) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the assistant city manager; and,
- (11) maintain any property assigned to the division by the assistant city manager.

(c) *Management of Multiple Divisions.* The assistant city manager, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the office.

## **§ 6. Administration Division**

(a) *Division Head.* The assistant city manager shall designate the head of the division who shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties and Responsibilities.* The head of the division shall:

- (1) provide administrative, communications, scheduling, research and support services to the assistant city manager;
- (2) manage the processing of payroll, purchasing, contracts, and personnel documentation for the office;
- (3) assist the assistant city manager in the performance of his or her duties and responsibilities as the head of the office; and,
- (4) perform the duties and responsibilities described in section 5(b)(1-11) above.

## **§ 7. Cable Services Division**

(a) *Division Head.* The director of cable services shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties and Responsibilities.* The director of cable services shall:

- (1) administer the cable television franchise agreement and monitor the activities of the cable franchise operator;
- (2) after consultation with the cable television advisory committee, make recommendations annually to the assistant city manager as to the disbursement the funds received under the cable franchise agreement among the public, educational and government channel operations;
- (3) operate the government access channel on the cable television system so as to provide to the extent possible: A) live cablecasts of the meetings of the city council, committees of the city council, city boards and commissions and other governmental bodies related to the city of Worcester; 2) original content programming providing viewers with information about the operations, issues and decisions involving city of Worcester agencies; and, 3) other programming which is useful to the residents of Worcester and appropriate for broadcast on a government access cable channel;
- (4) coordinate as necessary with the director of technical services to ensure that any institutional network provided under any cable franchise agreement operates properly and meets the technical requirements of the city for the internal transmission of data among city offices;
- (5) administer and keep the records of the cable television advisory committee; and
- (6) perform the duties and responsibilities described in section 5(b)(1-11) above.

**§ 8. Economic Development Division**

(a) *Division Head.* The economic development division shall be headed and staffed by such personnel as shall be assigned by the assistant city manager.

(b) *Duties & Responsibilities.* The division head shall:

- (1) develop and administer the economic development program of the city;
- (2) attract and guide the investment of private capital into new or existing businesses or properties so as to expand the tax base and employment levels of the city;
- (3) administer the business and economic development laws and programs of the state and federal governments;
- (4) administer and coordinate contracts entered into by the city for business or economic development purposes;
- (5) develop and administer the marketing program of the city and promote Worcester as a place for living, working, and investing;
- (6) develop and administer the cultural development program of the city and, in partnership with the Worcester Cultural Coalition, promote Worcester as a place for creative enterprise;
- (7) develop and administer the environmental remediation programs of the city, including the administration of grants for the remediation of environmental contamination on public or private property;
- (8) perform the duties and responsibilities described in section 5(b)(1-11) above.

**§ 9. Neighborhoods & Housing Division**

(a) *Division Head.* The director of neighborhood development shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties & Responsibilities.* The director of neighborhood development shall:

- (1) administer the community development block grant program in accordance with the entitlements and requirements of the Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq., as amended, and the regulations adopted under authority thereof at 24 C.F.R. 570. (see, 24 C.F.R. 507.206);
- (2) administer state and federal grant programs which provide home ownership and housing opportunities and assistance for persons of low and moderate income;
- (3) develop policy recommendations on housing and homelessness and administer such policies as directed by the assistant city manager;

- (4)ensure that residents enjoy the full advantage of neighborhood programs involving community policing, local law enforcement, crime watch initiatives, clean city initiatives, community health, elder services, basic family preservation services; and enhanced neighborhood quality of life;
- (5)attend various neighborhood and community group meetings as directed by the assistant city manager;
- (6)perform planning, urban environmental design and policy-planning-management-capacity building activities under the community development block grant program (see, 24 C.F.R. 507.205) to the extent those activities are consistent with the neighborhood and housing development functions of the division;
- (7)process applications for grants from federal, state and private sources to be expended for housing and related needs by the department or by other appropriate city agencies for the public purposes for which those agencies have been established and organized under law; and,
- (8)perform the duties and responsibilities described in section 5(b)(1-11) above.

(c) *Grants and Program Activities.* When directed by the city manager, the division shall be authorized to monitor the implementation of any grant received and, in so doing to charge the grant proceeds with any administration fee authorized by law. The division shall not be the recipient of the proceeds of any grant awarded through the performance of its duty to process applications for grants from federal, state and private sources unless such grant provides funds for a programmatic activity under the responsibility of the office and the expenditure of such grant proceeds is approved by the city manager.

## **§ 10. Planning and Regulatory Services Division**

(a) *Division Head.* The director of planning and regulatory services ("director") shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties & Responsibilities.* The director shall:

- (1)provide the city manager and such other officers, employees, boards and commissions of the city as directed by the city manager or otherwise by law, with advice on planning and land use policy in the city by:
  - (i) performing the planning, urban environmental design and policy-planning-management-capacity building activities prescribed in the community development block grant program (see, 24 C.F.R. 507.205) to the extent those activities are consistent with the land use planning and economic development functions of the office;
  - (ii) maintaining the official map of the city in accordance with the laws of the commonwealth; and,
  - (iii) maintaining an accurate copy of the zoning map in accordance with the zoning ordinance;

- (2) provide the assistant city manager with recommendations on useful changes to the official map of the city or the zoning map or zoning ordinance of the city;
- (3) administer the affairs of the performance of any and all functions as may be lawfully delegated by any board or commission of the city to the director of planning and regulatory services; and,
- (4) serve as the clerk and keeper of the records of the planning board, zoning board of appeals and historic commission; and,
- (5) perform the duties and responsibilities described in section 5(b)(1-11) above.

(c) *Delegation of Duties to the Chief Planner.* The director may delegate any duty, responsibility or authority vested in that position by these ordinances, or any other law, to the chief planner.

(d) *Planning & Urban Environmental Design Activities.* In performing the planning, urban environmental design and policy-planning-management-capacity building activities under the community development block grant program (see, 24 C.F.R. 507.205), the director may gather data, conduct studies and analysis and otherwise prepare the following plans: comprehensive plans; community development plans; and, functional plans in areas such as economic development, land use and urban environmental design, housing, open space and recreation, energy use and conservation, floodplain and wetlands management, transportation, utilities, historic preservation.

(e) *Official Map.* The official map of the city shall contain only those public ways, private ways and parks as authorized by section 81E of chapter 41 of the General Laws. The director shall keep a true and accurate copy of the official map and is hereby authorized to certify as true copies and issue the official map of the city or any portion thereof. The director shall revise the official map with lines or notations showing proposed, new, altered, relocated or discontinued public ways and new, altered or discontinued boundaries of parks and playgrounds, as may from time to time result from any action of the city council or otherwise by operation of law. The director, either directly or through subordinates, shall cause all changes or additions to the official map to be recorded in the Worcester District Registry of Deeds and filed with the city clerk and the state agency designated by statute to receive said filings.

(f) *Zoning Map.* The director shall maintain a true and accurate copy of the zoning map of the city, as the same may be amended from time to time by action of the city council, and shall, either directly or through subordinates, certify as true copies and issue the zoning map of the city or any portion thereof. The director shall revise the zoning map to show changes made by any amendments to the zoning ordinance adopted by the city council or otherwise by operation of law. The director, either directly or through subordinates, shall cause all amendments to the zoning map to be recorded in the Worcester District Registry of Deeds and filed with the city clerk.

## **§ 11. Workforce Development Operations Division**

(a) *Division Head.* The director of workforce development operations shall head the division and shall have the assistance of such personnel as shall be assigned by the assistant city manager. Unless otherwise required by

law, the director shall be appointed by and serve at the pleasure of the city manager.

(b) *Duties & Responsibilities.* The director of workforce development operations shall:

- (1) operate in accordance with all applicable laws and regulations one or more one-stop career centers as may be designated or certified from time to time by the local workforce investment board established under the Workforce Investment Act (Public Law 105-220, August 7, 1998, 112 Stat. 936; see 29 U.S.C. § 2801 et seq.; the "Act"), as the Act may be amended or superseded by subsequent federal legislation, and such other state laws or regulations implementing the Act. For purposes of this section, a "one-stop career center" shall be a comprehensive customer-focused workforce investment and training center which: 1) uses information and high quality services to provide people with access to the tools they need to manage their careers and companies with access to appropriately skilled workers; 2) qualifies as a "one-stop operator" under the Act and the requirements of the commonwealth in the implementation of the Act (see 29 U.S.C. § 2864(c)); and, 3) is designated or certified as a one-stop partner by the local workforce investment board (see 29 U.S.C. § 2841(d));
- (2) direct, control, supervise and discipline the staff of the one-stop career centers operated by the division and in doing so report directly and solely to the assistant city manager;
- (3) exercise such authority as may be provided to the chief administrative official of a one-stop career center by the Act or any federal or state law regarding employment, education and training programs;
- (4) administer and manage the operations, programs and activities of the division under the general superintendence of the assistant city manager; and,
- (5) to the extent not prohibited by the Act or any other federal or state law involving the employment and training of individuals, perform the duties and responsibilities described in section 5(b)(1-11) above.

(c) *Fiscal Agent.* In the event that the city manager designates the workforce development operations division to be the local fiscal agent or local grant subrecipient under 29 U.S.C. § 2832(d)(3)(B)(II), the director of workforce development operations shall provide such services in accordance with 29 U.S.C. § 2832(d)(3)(B)(III).

## **§ 12. Workforce Investment Board Division**

(a) *Division Head.* Whenever the local workforce investment board (as defined below) shall determine to employ individuals in the employ of the city of Worcester as its staff, the city manager shall appoint a director of workforce investment board who shall head this division and shall have the assistance of such personnel as shall be assigned by the assistant city manager. Unless otherwise provided by law or in any agreement or memorandum of understanding between the city and the local workforce investment board, the director shall be appointed by and serve at the pleasure of the city manager.

(b) *Duties & Responsibilities.* The director of the workforce investment board shall:

- (1) provide executive staffing services to the local workforce investment board ("board") established under the Workforce Investment Act (Public Law 105-220, August 7, 1998, 112 Stat. 936; see 29 U.S.C. § 2801 *et seq.*; the "Act"), as the Act may be amended or superseded by subsequent federal legislation, and such other state laws or regulations implementing the Act;
- (2) act under the auspices of any agreement or memorandum of understanding between the city and the board concerning the employment of staff by the board;
- (3) exercise such authority within the service delivery area which includes the city as may be provided by the Act or any federal or state law regarding employment, education and training programs, including planning, contract development and negotiation, monitoring and evaluation, management information system maintenance and program and fiscal management;
- (4) direct, control, supervise and discipline such subordinate staff of the local workforce investment board as either the board may employ or the city manager may appoint in accordance with the personnel policies and practices of the city (or such other policies and practices as established by the board and approved by the city manager) and in doing so report solely to the board and the assistant city manager;
- (5) provide the city manager with information and forecasts concerning employment, unemployment, employer needs and economic activity;
- (6) keep the city manager advised on employment matters, including the Worcester area job market, existing proposed programs, federal and state legislation on employment, and employment trends;
- (7) provide advice and counsel to city agencies on employment, education and training planning matters;
- (8) perform such other duties as may be requested by the city manager or the board consistent with the above; and,
- (9) perform the duties and responsibilities described in section 5(b)(1-11) above.

(c) *Fiscal Agent.* In the event that the city manager designates the board to be the local fiscal agent or local grant subrecipient under 29 U.S.C. § 2832(d)(3)(B)(II), the director of the workforce investment board shall provide such services in accordance with 29 U.S.C. § 2832(d)(3)(B)(III).

(d) *Restrictions.* The director of the workforce investment board shall not, either directly or through subordinate staff, provide core services as described in 29 U.S.C. § 2864(d)(2) or intensive services described in 29 U.S.C. § 2864(d)(3), or otherwise operate a one-stop career center as described above and in 29 U.S.C. § 2864(c), without the approval of the governor and the city manager or engage in any other activity concerning employment, education and training programs and projects which is prohibited by the Act or any law, regulation or guideline issued by the commonwealth of Massachusetts in these matters.

### **§ 13. Youth Opportunities Division**

(a) *Division Head.* The youth director shall head the division and shall have the assistance of such personnel as shall be assigned by the assistant city manager. Unless otherwise required by law, the director shall be appointed by and serve at the pleasure of the city manager.

(b) *Duties and Responsibilities.* The youth director shall:

- (1) identify and coordinate the provision of multiple government-based services and programs to local youth and collaborate and coordinate with existing non-governmental organizations and agencies, the business community and service providers involving youth programs, employment and services;
- (2) identify and coordinate various governmental and non-governmental funding sources for youth programs, employment and services;
- (3) assist the City Manager's Advisory Committee on Youth in the creation and updating of an *Agenda for Youth*, a five-year plan containing recommendations for jobs, programs, services and initiatives to benefit youth;
- (4) assist the City Manager's Advisory Committee on Youth in the development of performance measurements and benchmarking criteria to quantify the impact of youth programs;
- (5) assist the City Manager's Advisory Committee on Youth in the development of recommendations to the city manager on legislative initiatives for the benefit of youth;
- (6) advise the city manager and the City Manager's Advisory Committee on Youth on matters affecting youths;
- (7) administer and keep the records of the City Manager's Advisory Committee on Youth; and,
- (8) perform the duties and responsibilities described in section 5(b)(1-11) above.

### **§ 14. Advisory Committee On Youth**

(a) *Establishment of the City Manager's Advisory Committee on Youth.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "City Manager's Advisory Committee on Youth" ("committee").

(b) *Membership of the City Manager's Advisory Committee on Youth.* The committee shall consist of fifteen regular members appointed by the city manager for terms of three years, which terms shall be staggered such that no more than five terms shall expire on December thirty-first of each year. The city manager shall designate from the membership of the committee a chair and vice-chair. The members of the committee shall consist of representatives of representatives of the following agencies and entities or, in the event that such agencies or entities are unable to provide representatives, the city manager may select individuals from other organizations as he or she deems appropriate to further the purposes of this provision:

- (1)Common Pathways;
- (2)HOPE Coalition;
- (3)Worcester Interfaith, Inc.;
- (4)Greater Worcester Community Foundation, Inc.;
- (5)Worcester Regional Chamber of Commerce;
- (6)Colleges of Worcester Consortium, Inc.;
- (7)UMASS Memorial Hospitals, Inc.;
- (8)United Way of Central Massachusetts, Inc.;
- (9)Pride Productions, Inc.;
- (10)Worcester Community Action Council, Inc.;
- (11)Central Massachusetts Regional Employment Board, Inc.;
- (12)Y.O.U, Inc.
- (13)Boys & Girls Club; Boys and Girls Club of Worcester, Inc.;
- (14)Young Women's Christian Association of Central Massachusetts;
- (15)Young Men's Christian Association of Greater Worcester.

(c) *City Representatives of the City Manager's Advisory Committee on Youth.* The city manager may also assign representatives from any city agency under the jurisdiction of the city manager, including the Worcester Department of Public Works and Parks, the Worcester Police Department and the Human Resources Division of the city of Worcester, Workforce Development Operations Division, Workforce Investment Board Division, to serve on the committee ex officio as associate members. The city manager may also request the superintendent of the Worcester Public Schools to assign a member of that department to serve as an associate member of the committee.

(d) *Duties & Responsibilities of the City Manager's Advisory Committee on Youth.* The committee shall:

- (1)assist the youth director in identifying government and non-governmental based programs, employment and services for local youth;
- (2)create, adopt and periodically update a five-year plan to be known as the "Agenda for Youth" which shall contain recommendations for jobs, programs, services and initiatives to benefit youth;
- (3)assist the youth director in the development of performance measurements and benchmarking criteria to quantify the impact of youth programs;
- (4)assist the youth director in the development of recommendations to the city manager on legislative initiatives for the benefit of youth;
- (5)advise the youth director and the city manager on matters affecting youths;
- (6)provide the city manager an annual report stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the matters under its jurisdiction.

## **§ 15. Cable Television Advisory Committee**

(a) *Cable Television Advisory Committee.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Cable Television Advisory Committee" ("committee").

(b) *Membership of the Cable Television Advisory Committee.* The committee shall consist of seven persons appointed by the city manager for three year terms. The terms shall be staggered such that no more than two terms shall expire on December thirty-first of any year. The city manager shall designate from the membership of the committee a chair and vice-chair.

(c) *Duties & Responsibilities of the Cable Television Advisory Committee.* The committee shall:

- (1) advise and assist the city manager in the performance of the duties and responsibilities vested in the city manager by law as the licensing authority for cable television franchises in the city;
- (2) provide advice concerning public, governmental, educational, and other access programming on cable television;
- (3) meet periodically with the licensee, concerning matters of interest between the licensee, the public, the city manager as issuing authority, and the city;
- (4) report to the city manager regarding compliance by the licensee with the terms and conditions of the license, and to provide advice concerning the same;
- (5) render advice and suggestions concerning local, educational and governmental origination programming;
- (6) supervise the licensee's manner of responding to, and of resolving, complaints by members of the public;
- (7) respond to inquiries by members of the public regarding cable television matters; and,
- (8) provide the city manager an annual report stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the cable television matters under its jurisdiction.

## **§ 16. Cultural Commission**

(a) *Establishment of the Cultural Commission.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Cultural Commission" ("commission").

(b) *Membership of the Cultural Commission.* The commission shall consist of nine members who shall be appointed by the city manager for a term of three years. The terms shall be staggered such that three terms expire on December thirty-first of each year. The city manager shall from time to time designate one of the members of the commission as its chair.

(c) *Duties & Responsibilities.* The commission shall:

- (1) promote the cultural affairs of the city;

- (2)conduct studies and research and publish reports on cultural activities;
- (3)cooperate with federal and state cultural agencies;
- (4)advise municipal agencies of cultural matters;
- (5)allocate any funds received by the commission for cultural projects, programs or activities in accordance with law; and,
- (6)perform such other duties as may be prescribed by law.

## **§ 17. Historical Commission**

(a) *Establishment of the Historical Commission.* Under authority of General Laws, chapter forty C, sections four and fourteen, and chapter forty, section eight D, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Historical Commission" ("commission").

(b) *Establishment of Massachusetts Avenue & Montvale Historic Districts.* Under authority of General Laws, chapter forty C, section three, there are hereby established historic districts to be known as the "Massachusetts Avenue Historic District" and the "Montvale Historic District", both being shown on maps bearing their respective titles and on file with the city clerk and made a part hereof.

(c) *Membership of the Historical Commission.* The commission shall consist of six regular members and two alternates appointed for terms of three years by the city manager in accordance with the requirements of the city charter and the provisions of this section. The terms shall be staggered such that two terms of regular members shall expire every December thirty-first. The terms of alternate members shall be staggered such that the terms shall expire on December thirty-first on successive years and none shall expire every third year. One member shall be a resident of the Massachusetts Avenue Historic District and one member shall be a resident of the Montvale Historic District.

All members and alternates shall have demonstrated a special interest, competence or knowledge in historic preservation. To the extent available in the charter appointment districts, members of the commission shall be professionals in the disciplines of architecture, history, architectural history, prehistoric archaeology, historic archaeology, urban planning, American studies, American civilization, cultural geography and cultural anthropology. In case of absence, inability to act or unwillingness to act because of self-interest on the part of any member of the commission, his or her place shall be taken by an alternate member designated by the chair.

(d) *Duties & Responsibilities of the Historical Commission.* To preserve, promote and develop historic assets of the city in accordance with law, the commission shall:

- (1)administer the Massachusetts Avenue Historic District and the Montvale Historic District, and any additional historic districts lawfully established, consistent with General Laws;
- (2)issue certificates of appropriateness, certificates of nonapplicability, and certificates of hardship with respect to construction or alteration of buildings and structures within the historic district when such construction or alteration affects exterior architectural features. Such certificates

shall be issued as prescribed in the General Laws, chapter forty C, section six;

- (3) consider factors as prescribed in General Laws, chapter forty C, section seven, in passing upon matters before it;
- (4) issue such certificates, make such recommendations, keep such records and have such powers, functions and duties as are prescribed in General Laws, chapter forty C, section ten, except that officers and employees necessary for the proper administration of the commission shall be appointed and removed by the city manager in accordance with the city charter; and all gifts shall be subject to approval of the city manager and city council;
- (5) call and conduct meetings and to hold such public hearings as are prescribed in General Laws, chapter forty C, section eleven;
- (6) conduct research for places of historic value, to coordinate the activities of unofficial bodies organized for similar purposes, to advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it deems necessary for its work, and to make such recommendations as are described in General laws, chapter forty C, section eight D;
- (7) propose from time to time to the city manager as it deems appropriate, the establishment in accordance with the provisions of this Article and the General Laws, chapter forty C, section three, of additional historic districts and changes in historic districts;
- (8) determine an appropriate system of markers for selected historic sites and buildings not already sufficiently marked, to arrange for preparation and installation of such markers, and to arrange for the care of historic markers;
- (9) advise the redevelopment authority, planning board and any other city department or agency in matters involving historic sites and buildings;
- (10) cooperate with and enlist assistance from the National Park Service, the National Trust of Historic Preservation, and other agencies, public and private, concerned with historic sites and buildings;
- (11) advise owners of historic buildings in Worcester on problems and solutions of preservation; and
- (12) perform such other duties as may be prescribed by law.

(e) *Advisory Board to the Historical Commission.* The commission may recommend to the city manager from time to time as needed, appointment of advisory committees of historians and persons experienced in architecture or other arts or in historic restoration or preservation to assist the commission.

(f) *Rules & Regulations of the Historical Commission.* The commission, under the authority of General Laws, chapter forty C, shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein, and may adopt and amend such rules and regulations not inconsistent with the provisions of chapter forty C and

prescribe such forms as it shall deem desirable and necessary for the regulation of its affairs and the conduct of its business.

(g) *Maintenance & Repair of Properties Under the Jurisdiction of the Historical Commission.* Nothing herein shall be construed to prevent the ordinary maintenance and repair of buildings, structures or grounds within the district nor prevent actions by duly authorized public officers as described in General Laws chapter forty C, section nine.

(h) *Appeals from Decisions of the Historical Commission.* Any applicant aggrieved by a determination of the commission may file a written request with the commission for review by person or persons of competence and experience in such matters designated by the Central Massachusetts Regional Planning Commission as prescribed in the General Laws, chapter forty C, section twelve, and may further appeal such determination to the superior court as prescribed in the General Laws, chapter forty C, section twelve A.

## **§ 18. Planning Board**

(a) *Establishment of the Planning Board.* Under authority of General Laws, chapter forty-one, section eighty-one A, and Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a regulatory board of the city to be known as the "Planning Board".

(b) *Membership of the Planning Board.* The planning board shall consist of five members appointed by the city manager for a term of five years such that one term shall expire on May thirty-first of each year.

(c) *Duties & Responsibilities of the Planning Board.* It shall be the duty and responsibility of the planning board to exercise the authority granted to it by the subdivision control law, and any other applicable general or special law, and the city wetlands ordinance, and any other applicable city ordinance.

## **§ 19. Zoning Board of Appeals**

(a) *Establishment of the Zoning Board of Appeals.* Under authority of Article Six of the Home Rule Charter and General Laws chapter forty A, section twelve, there is hereby established under the jurisdiction of the city manager a regulatory board of the city to be known as the "Zoning Board of Appeals" ("zoning board").

(b) *Membership of the Zoning Board.* The zoning board shall consist of five members appointed by the city manager for terms of five years. The terms of such members shall be staggered such that one term shall expire on December thirty-first of each year. The members so appointed shall be designated regular members at the time of their appointment.

(c) *Associate Members of the Zoning Board.* The city manager shall also appoint two individuals to serve as associate members of the zoning board. The terms of associate members shall be five years and shall expire on December thirty-first. The associate members terms shall be staggered such that the term of the second associate member shall expire on the December thirty-first two years after the expiration of the term of the first associate member.

(d) *Duties & Responsibilities of the Zoning Board.* The zoning board shall:

- (1)hear and decide land use matters properly brought before it under the zoning ordinance of the zoning act, G.L. chapter forty A;
- (2)carry-out the duties and responsibilities vested in the zoning board by the city zoning ordinance;
- (3)exercise the jurisdiction provided by section eighty-one Z of chapter forty-one of the General Laws;
- (4)adopt rules not inconsistent with the zoning ordinance for the conduct of its business and to file a copy of its rules, together with any amendments as they are adopted, with the city clerk;
- (5)elect annually a chair from one if its regular members; and,
- (6)perform such other duties as may be prescribed by law.

**§ 20. Worcester Regional Airport Commission**

(a) *Establishment of the Worcester Regional Airport Commission.* Under authority of the General Laws, chapter ninety, section fifty-one D, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Worcester Regional Airport Commission" ("commission").

(b) *Membership of the Worcester Regional Airport Commission.* The commission shall consist of seven members appointed by the city manager for three year terms. At least one member shall have experience in aeronautics. The terms shall expire on May 31st of each year and shall be staggered such that two terms shall expire each year for two years and three terms shall expire every third year.

(c) *Duties & Responsibilities of the Worcester Regional Airport Commission.* The commission shall:

- (1)have care, custody and control of the aviation facilities of the city known as Worcester Regional Airport at James D. O'Brien Field;
- (2)provide general administration and supervision over such personnel at the airport as the city council, with the advice of the city manager, shall from time to time authorize to serve at the airport, excepting only those matters entrusted to the executive officer of the Worcester Regional Airport Commission as provided herein;
- (3)provide general administration and supervision over the activities of the Massachusetts Port Authority as the contractual operator of the airport;
- (4)promulgate rules and regulations for the use of the airport under the authority of chapter ninety, section fifty-one J of the General Laws;
- (5)perform all duties prescribed for the commission by chapter ninety, sections fifty-one D through fifty-one N of the General Law;

- (6)make recommendations to the city manager for the approval of all city contracts, leases, deeds or legally binding obligations to which the city of Worcester, acting through its regional airport commission, is a party where the amount involved is two-thousand dollars or more;
- (7)seek the approval of the Massachusetts Aeronautics Commission whenever necessary or advisable; and,
- (8)perform such other duties as may be prescribed by law.

(e)*Executive Officer of the Worcester Regional Airport Commission.* Unless otherwise provided in the airport operating agreement with the Massachusetts Port Authority, the city manager shall appoint an executive officer of the commission who shall be qualified by general management experience and aeronautical knowledge. The executive officer shall serve at the pleasure of the city manager and shall administer the affairs of the commission and be its clerk for the keeping and certifying of its official documents. The executive officer of the commission and shall act under the auspices of the airport operating agreement with the Massachusetts Port Authority or any such successor agreement or lease with the Massachusetts Port Authority or any other independent entity legally authorized to operate or lease Worcester Regional Airport. The executive officer shall supervise the personnel assigned to the airport by the city manager by implementing or establishing rules, policies and practices governing the operations and activities of airport personnel; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the airport; evaluating the performance of individual employees in the airport, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days.

**Article 4. Department of Administration & Finance**

- § 1. Establishment
- § 2. Function
- § 3. Head of Department
- § 4. Authorized Positions
- § 5. Organization of Department
- § 6. Assessing Division
- § 7. Budget Office Division
- § 8. Purchasing Division
- § 9. Technical Services Division
- §10. Treasury and Collections Division

Related Commission:

- §11. Trust Funds Commission
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Administration & Finance" ("department").

**§ 2. Function**

It shall be the function of the department to direct and coordinate all matters relating to the funds and finances of the city, excepting those under the legal auspices of the city auditor; said functions to include the preparation and management of the city budget, the assessment and collection of all city taxes, excises, betterments, assessments, fees, fines and penalties, the award of contracts for the acquisition of goods, supplies, services and property, the application for grants from any source and the management of the electronic information communications and processing systems.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the chief financial officer of the city who shall be appointed by, and serve at the pleasure of, the city manager.

(b) *Duties & Responsibilities.* The chief financial officer shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department and its divisions;
- (2) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized

- tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;
  - (4) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
  - (5) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
  - (6) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
  - (7) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America;
  - (8) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council;
  - (9) determine the priorities of the department and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
  - (10) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
  - (11) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the chief financial officer, city assessor, city treasurer and collector, purchasing agent, chief information officer, director of grants acquisitions and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

## § 5. Organization of Department

(a) *Establishment of Divisions.* The department shall be organized into the following divisions for the following purposes:

*Assessing Division* - to provide tax assessment services for the city;

*Budget Office Division* - to prepare the city operating and capital budgets, ensure that all expenditures conform such budgets, to provide estimates of the cost of new programs or policy changes and to make projections concerning the financial health of the city and to assist the director in the performance of duties and responsibilities as the of the head of the department and to oversee the preparation and filing of applications for grants funds for all departments of the city;

*Purchasing Division* - to make the purchases for all departments, boards, commissions and agencies of the city, including the school department;

*Technical Services Division* - to provide information management and support services to all city agencies including, but not limited to, the planning, analysis, development and support of information systems, including a geographic information system, for all agencies of the city, including the school department as assigned;

*Treasury & Collections Division* - to receive, collect, manage and disburse all funds of the city in accordance with law.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division shall also have the duty and responsibility to:

- (1)assist the chief financial officer in the performance of the duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the chief financial officer or otherwise prescribed by law;
- (2)manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, director of administration & finance, the city auditor or the chief financial officer;
- (3)supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the director up to and including suspensions for no more than five working days;
- (4)administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5)keep the chief financial officer informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;

- (6) implement the rules, policies and practices governing the operations of the department as are approved by the chief financial officer; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the chief financial officer;
- (7) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the chief financial officer;
- (8) make recommendations to the chief financial officer on changing or initiating any policy, operation, program or service to the public;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the chief financial officer; and,
- (10) maintain any property assigned to the division by the chief financial officer.

(c) *Management of Multiple Divisions.* The chief financial officer, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the department.

## **§ 6. Assessing Division**

(a) *Division Head.* The city assessor shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The city assessor shall:

- (1) make an assessment of all the taxable properties in the city and place the list of taxes, together with itemized lists of real estate in duplicate, ready for mailing, with the warrant for the collection of same, in the hands of the city treasurer within thirty days of determining the tax rate in each year and on or before the first day of every ensuing month lists of all additional or supplementary assessments made during the preceding month, together with warrant for their collection;
- (2) prepare lists of the amounts taxes or abatements of taxes, including notations of the amounts thereof which have not been included in any previous statement, and provide copies of those lists to the city treasurer and city auditor
- (3) perform all duties prescribed by the general laws, including chapter fifty-nine, and any special act applicable to the city;
- (4) have care and custody of all books, papers and documents belonging to the division and shall deliver the same to his or her successor in office;

- (5)keep records of all official transactions; and,
- (6)perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Notices of Exemption or Abatement Eligibility.* The city assessor shall, at the time he commits the tax list to the city treasurer for collection, include therewith a notice to taxpayers containing information in regard to eligibility and requirements for a tax exemption or tax abatement, as follows:

- (1) Such notices shall be made a part of or otherwise included with each tax notice and shall inform taxpayers that they may be eligible to receive a tax exemption or tax abatement if they fall within certain categories as are described within G.L. chapter 59, § 5; that in addition thereto, the said notice shall contain a brief statement that the subject categories as are described by G.L. chapter 59, § 5 include, but are not limited to, the following examples:

- (A)widows or minor children of a deceased father;
- (B)veterans with disability rating of ten per cent or more or who have suffered certain injuries or been awarded certain medals for distinguished service; that wives, unmarried widows and surviving parents of certain veterans may also be eligible for an abatement;
- (C)blind persons;
- (D)persons over seventy years of age;
- (E)a spouse of a police officer or firefighter killed in the line of duty;
- (F)minor children of police officer or firefighter killed in the line of duty if the mother or father of the said children is also deceased;
- (G)persons who are not able to pay taxes due, because of age, infirmity and poverty;
- (H)certain persons, age sixty-five or over, may be eligible to postpone payment of all or a portion of real estate taxes, when a tax deferral and recovery agreement has been entered into with the city assessor;
- (I)a person who believes that he has been assessed at more than his just proportion or that the property has been assessed in excess of its fair cash value.

- (2) Said notice in addition to these matters described within subsection shall include therein a brief statement informing taxpayers that applicants for exemption or abatement must meet certain statutory requirements; that such requirements may vary according to the particular exemption or abatement sought; that information concerning eligibility may be obtained from G.L. c. fifty-nine, section five, or by request to the city assessor. That the requirements may include, but are not limited to, the following examples:

- (A)residence and/or domicile within the commonwealth for certain time periods;
- (B)financial resources within certain prescribed limits;

(C)age restrictions as to applicants for certain exemptions or abatements.

- (3) Said notice shall further include a brief statement informing taxpayers that applicants for exemption or abatement are required by law to make application on official forms; said notice shall also include the address and phone number of the office where such forms are available; that by law, such applications are required to be filed within certain time periods; that the specific time for filing applications for the various exemptions or abatements is printed on each tax bill or otherwise include with each tax bill and that further assistance in this regard is available from the city assessor.

#### **§ 7. Budget Office Division**

(a) *Division Head.* The chief financial officer shall head the division and shall have the assistance of such other personnel as shall be assigned by the city manager.

(b) *Duties and Responsibilities.* The chief financial officer shall:

- (1)assist the city manager in the preparation, submission and explanation of the annual budget and the five year annual capital outlay program as required by Article 5 of the city charter and with submission and explanation thereof to the city council;
- (2)assist the city manager in the preparation, submission and explanation of any supplemental budget or transfer of appropriation as authorized by article five of the city charter;
- (3)review and approve for the approval of the city manager all purchase orders, requests for personnel and capital expenditure requests;
- (4)keep records of all budget entries and transactions and the activities of the division;
- (5)manage the processing of payroll, purchasing, contracts, and personnel documentation for the department; identify federal, state and private grant programs which could be employed to fund existing or new city operations;
- (6)advise city departments of the eligibility requirements and deadlines and the operational requirements and obligations involved in any grant;
- (7)advise the chief financial officer and the department or division for which the grant is sought of any financial obligations which would be placed upon the city by acceptance of any particular grant;
- (8)assist the department in obtaining the approval of the city manager and city council prior to the filing of any grant application; and,
- (9)perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Grant Funded Activities.* Whenever a grant has been awarded from any source to further the performance of the duties and responsibilities described in section five hereof, the proceeds of all and any such grants shall be deposited in accounts within the office of the city manager which accounts shall, for financial management purposes, be under the control of the director. Whenever a grant provides funds for an activity which would be properly or ordinarily be performed by any other city agency regardless of the source of funding, that city agency shall be responsible for implementing the activities funded by the grant.

## **§ 8. Purchasing Division**

(a) *Division Head.* The purchasing agent shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The purchasing agent shall:

- (1) serve as the chief procurement officer of the city on all transactions unless the city manager has designated otherwise with regard to any particular contract or to any category or categories of contracts;
- (2) administer the provisions of the city charter and the public bidding laws in the award of all city contracts for the purchase of supplies or other personal property, the acquisition of services, the construction, reconstruction, alteration, remodeling or repair of any public work or public building, the purchase or sale of real property, the disposal of real, personal or tangible property, and the retention of design or engineering services, unless otherwise directed by the city manager with regard to any particular contract or to any category or categories of contracts;
- (3) initiate the proper contract award procedure upon the request of the head of any city department, including the school department;
- (4) award the contract, in the case of tie low bids, quality and delivery being equal, to a bidder having a place of manufacture or business in the city, or to a bidder who has already established a satisfactory experience with the city;
- (5) administer the execution of contracts by securing the signatures of the vendor or contractor, the head of the department originating the purchase or transaction, the budget officer or city auditor as the case may be, the city solicitor and the city manager in that order except in the case of public works or public buildings construction contracts where all city signatories shall execute the contract in the order described above prior to the contract being presented to the contractor for signature;
- (6) deliver an original of each city contract once fully executed to the city clerk and copies of the same to the city auditor and the department originating the purchase or other transaction;
- (7) review all invoices prior to payment as may be presented concerning the purchase of goods or supplies by any city

- department to determine whether the invoice accurately reflects the terms of the contract and that the quantity, quality and delivery of the goods or services complies with the contract;
- (8) keep current on market trends and conditions concerning goods and supplies frequently purchased by the city;
  - (9) ascertain from any department such information as may be necessary or useful to supply goods and services to that department, including information necessary to schedule periodic deliveries of supplies or the performance of services; and,
  - (10) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Emergency Procurement.* In the event of an emergency declared by the city manager, take any action as directed in said declaration or pursuant thereto by the city manager.

(d) *Promulgation of Rules & Allocations of Scarce Commodities.* The purchasing agent may, with the approval of the chief financial officer, promulgate rules of procedure governing the foregoing duties and responsibilities, the purchasing procedures to be followed by city agencies and the allocation of any commodity, including oil, gasoline, paper and road salt, which is in short supply due to extraordinary market conditions and, in such event, any department head aggrieved by any such allocation may appeal to the city manager for a final determination of the allocation of such commodities.

## **§ 9. Technical Services Division**

(a) *Division Head.* The chief information officer shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

- (b) *Duties and Responsibilities.* The chief information officer shall:
- (1) organize and implement a centralized information systems center as authorized by the city manager;
  - (2) direct, organize, and implement the planning, development and production of information systems, including the integrated municipal information system and the geographic information system;
  - (3) direct and control the data operations and personnel of the department;
  - (4) coordinate through advice and counsel the data requirements of any other city agency;
  - (5) advise the city agencies on information systems matters, including the review of proposed applications or equipment acquisitions;
  - (6) provide support services to city agencies, in accordance with the priorities of the city manager;
  - (7) maintain and safeguard data, city-wide network, information, programs and equipment of the department;

- (8) establish rules and regulations controlling the access and release of data, including, but not limited to, particular personnel information of municipal employees and other persons and arrest records or similar law enforcement data;
- (9) maintain the confidentiality of any information or data collected or processed by the division except as authorized by the user agency, the chief financial officer or the city manager; and,
- (10) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 10. Treasury and Collections Division**

(a) *Division Head.* The city treasurer and collector shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The city treasurer and collector shall:

- (1) perform all duties prescribed by chapter forty-one of the General Laws;
- (2) maintain an account of all receipts and disbursements for and on behalf of the city and to conform the same as nearly as may be possible with accounts kept by the city auditor;
- (3) have custody of, and keep a registry thereof, all official bonds, notes, scrip and other certificates of indebtedness, together with coupons issued by the city after they have been paid, except for the fidelity bonds of the city treasurer and any assistant treasurer, which shall be kept by the city auditor;
- (4) render to the city manager annually on or before September thirtieth a detailed statement of all receipts and disbursements for the previous fiscal year;
- (5) negotiate under the direction of the city manager all loans authorized by the city council;
- (6) collect and receive all money due to the city on all accounts and other demands against persons indebted to the city and disburse all sums owed by the city, except as otherwise provided by law or city ordinance;
- (7) collect and administer the laws regarding the payment of fines for parking violations and for civil and criminal violations of city ordinances enforced through the non-criminal disposition process;
- (8) keep and safeguard all books and records of the division;
- (9) deliver to his successor all books, papers, documents and property of the division;
- (10) act as treasurer and custodian of all trust funds of the city and all funds of the Worcester Retirement System;

- (11) administer the affairs of the trust funds commission established by these ordinances and perform all such duties as may lawfully be required by the commission; and,
- (12) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Receipt of Payments Other Than At The Treasury.* Departments, divisions, boards and commissions, when authorized in writing by the city manager, may process the receipt of payments for services they render and the receipts given by such departments at the time of any such payment shall be sufficient to establish the valid discharge of the debt due the city. Otherwise, only the receipt of the city treasurer shall be sufficient to establish the valid discharge of any debt due the city. Any departments, etc., so authorized, shall make returns of all such collections to the treasurer and render accounts of their collections to the city auditor. The treasurer shall determine the form, manner and time of all such returns and the city auditor shall determine likewise for all such accounting.

(d) *Payments Only Upon Appropriation.* No money shall be paid out of the city treasury by the treasurer except by appropriation order of the city council, or to satisfy final judgments against the city, unless the expenditures or the terms of the contract shall have been approved or certified by the chair of the board or by the officer heading the department or division authorized to incur the expenditure or make the contract or unless the same shall have been approved by and the warrant therefor shall have been drawn by the city manager. No other person shall pay any bill of any department or division.

(e) *Fidelity Bonds.* The treasurer, acting solely in his or her capacity as city treasurer, shall give a bond to the city in accordance with chapter forty-one, section thirty-five of the General Laws. The city treasurer, acting solely as collector of taxes, shall give a separate bond to the city acceptable to the commissioner of revenue.

## **§ 11. Trust Funds Commission**

(a) *Establishment of the Trust Funds Commission.* Under authority of General Laws, chapter forty-one, section forty-five, and Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Trust Funds Commission" ("commission").

(b) *Membership.* The commission shall consist of three commissioners who shall be appointed by the city manager for three year terms. The terms shall be staggered such that one term shall expire on January thirty-first each year.

(c) *Duties and Responsibilities.* The commission shall:

- (1) manage all trust funds given or bequeathed for the benefit of the city inhabitants thereof in accordance with the terms of each trust, unless the gift or bequest shall otherwise provide, including the "William A. Richardson Park Fund", the Jaques Fund and any other fund held by the city for the benefit of the former city hospital; provided, however, that any trust fund given or bequeathed to the city for the benefit of the Free Public Library, whether now existing or given in the future, shall be managed by the board of

directors of the Free Public Library unless the trust should provide otherwise;

- (2) adopt regulations governing its affairs, which regulations shall provide that any investment decision made by the commission shall be effective only if approved by at least two of the trustees;
- (3) distribute the income in accordance with the terms of the respective trust;
- (4) have care, custody and control of all the remaining property, real, personal, mixed, which had been received, or shall hereafter be received, directly or indirectly by gift, bequest or otherwise, for the benefit of the former city hospital, except as otherwise provided by such gift, devise, or deed or otherwise;
- (5) have the full power and authority to negotiate and make sale of any real estate now held by the city for the use and benefit of the former city hospital, and all real estate which has been or may be hereafter granted, conveyed or devised to the city for the use benefit of the city hospital, unless conditions are connected with the conveyance, devise or gift inconsistent therewith, and all real estate which may at any time become the property of the city through any investments made by authority of this section, and for the time being not in use for hospital purposes, in such quantities, at such times, and upon such terms as they shall regard the most advantageous to the interest of all parties interested in the funds, provided that, any conveyance of real estate so sold shall be valid only by deed executed by the city manager and assented to by the commission;
- (6) invest from time to time all monies which shall hereafter be derived from the sale of real estate or personal property given, granted or bequeathed for the benefit of the city hospital, in the same securities and in the same manner provided by the statutes of the commonwealth for the management and investment of deposits in savings banks; provided, that no part of the money or property shall be invested in the bonds, scrip or other obligations of the city;
- (7) pay over to the city treasurer when appropriate all monies hereafter received as income from any property heretofore granted, bequeathed or conveyed, for the benefit of the former city hospital, whether as rents, interest, or otherwise, unless conditions connected with the bequest or gift is inconsistent therewith, after deducting such sums as may be expended by them in necessary repairs upon the property and such sums as may be otherwise necessarily expended by them in the performance of their duties, and the city treasurer's receipt therefor shall be a sufficient voucher for such payments;
- (8) seek the advice and representation of the city treasurer and city solicitor whenever it appears reasonable or necessary to obtain judicial approval for the use of any trust funds, including former city hospital funds, for other public purposes;

- (9) perform all duties prescribed by chapter forty-one, section forty-seven of the General Laws;
- (10) keep full records of its doings and of the investments showing in detail the sources of receipts and the items of expenditure;
- (11) make annual reports to the city manager of its doings and stating the condition of each trust fund under its care; and,
- (12) perform such other duties as may be prescribed under law.

(f) *Custodian of the Trust Funds.* The city treasurer shall be the custodian of all funds and securities of such trust funds and shall invest and reinvest them and monies therefrom as directed by the commission. The city treasurer shall collect the income earned by the trust funds and each month shall turn over such income to the city to be spent in the manner provided for by the terms of the gift or bequest upon the draft of the city manager, counter-signed by the city auditor, in the same manner as other monies are disbursed.

**Article 5. Department of Public Works and Parks**

- § 1. Establishment
- § 2. Function
- § 3. Head of Department
- § 4. Authorized Positions
- § 5. Organization of Department
- § 6. Administration & Finance Division
- § 7. Operations Division
- § 8. Engineering & Architectural Services Division
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Related Boards and Commissions:

- §10. Civic Center Commission
- §11. Conservation Commission
- §12. Designer Selection Board
- §13. Hope Cemetery Board
- §14. Lincoln Square Memorial Board
- §15. Memorial Auditorium Board of Trustees
- §16. Off-Street Parking Board
- §17. Parks & Recreation Commission

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Public Works and Parks " ("department").

**§ 2. Function**

It shall be the function of the department to manage and perform capital facility improvement projects and to provide city residents, businesses and visitors with fundamental environmental and transportation services in the form of clean water, the disposal and recycling of household goods and rubbish, effective sanitary and storm sewers and safe bridges, highways, streets and sidewalks.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the commissioner of public works and parks ("commissioner") who shall be appointed by, and shall serve at the pleasure of, the city manager.

(b) *Duties and Responsibilities.* The commissioner shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department and its divisions;
- (2) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the

- department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;
  - (4) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
  - (5) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
  - (6) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
  - (7) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
  - (8) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department, or any of its divisions, by the city manager and the city council;
  - (9) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
  - (10) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;
  - (11) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager;
  - (12) represent the city as a member of the Upper Blackstone Water Pollution Abatement District; and,
  - (13) perform all duties prescribed by chapter two hundred ten of the acts of 1939, as amended, except as may be otherwise provided.

#### **§ 4. Authorized Positions**

- (a) *Table of Authorized Positions.* The department shall consist of the

commissioner and include an assistant commissioner of administration & finance, an assistant commissioner of operations, an assistant commissioner of engineering & architectural services, an assistant commissioner of parks, and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

## **§ 5. Organization of Department**

(a) *Establishment of Divisions.* The department shall be organized into the following divisions for the following purposes:

*Administration & Finance Division* - to manage the finances of the department and to assist the commissioner in the performance of duties and responsibilities as the of the head of the department;

*Operations Division* - to operate and manage the fresh water supply and sanitary and storm sewer facilities and systems of the city; to provide sanitation and hazardous waste collection programs; to manage and maintain all highways, streets, sidewalks and bridges belonging to the city, including related snow removal and pavement marking operations; and, to manage central garage and other miscellaneous activities of the department.

*Engineering & Architectural Services Division* - to provide engineering services for streets, sidewalks, bridges, water and sewer programs, conservation commission and other permitting issues and for other city capital facility projects as directed; to develop and manage the regulations governing traffic and parking in the city and city-owned parking facilities and provide traffic planning analysis and recommendations.

*Parks Division* - to manage, maintain, develop and improve the parks, recreation and forestry facilities of the city and to operate and maintain Hope Cemetery as a facility for public and private internments.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division shall also have the duty and responsibility to:

- (1)assist the commissioner in the performance of duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the commissioner or otherwise prescribed by law;
- (2)manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the commissioner;
- (3)supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in

the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the commissioner up to and including suspensions for no more than five working days;

- (4) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5) keep the commissioner informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6) recommend to the commissioner implementing the rules, policies and practices governing the operations of the department as are approved by the commissioner; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the commissioner;
- (7) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the commissioner;
- (8) make recommendations to the commissioner on changing or initiating any policy, operation, program or service to the public;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the commissioner; and,
- (10) maintain any property assigned to the division by the commissioner.

(c) *Management of Multiple Divisions.* The commissioner, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the department, said individual may be a division head with responsibility for one or more divisions or an assistant or deputy commissioner with responsibility for more than one division head.

## **§ 6. Administration & Finance Division**

(a) *Division Head.* The assistant commissioner of administration & finance of the department shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The assistant commissioner of administration & finance of the department shall:

- (1) operate the customer service center, a central office for the processing of citizen service requests for city services of all types and from all departments, including services delivered during emergencies;
- (2) manage the processing of payroll, purchasing, contracts, and personnel documentation for the department;

- (3)manage and administer landfill and solid waste issues;
- (4)manage and administer correspondence and reporting to the city manager and other city departments and outside agencies;
- (5)assist the commissioner in the performance of his or her duties and responsibilities as the of the head of the department; and,
- (6)perform the duties and responsibilities listed in section 5(b)(1-10) above.

## **§ 7. Operations Division**

(a) *Division Head.* The assistant commissioner of operations shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities .* The assistant commissioner of operations shall:

- (1)manage, maintain, construct, repair and replace all reservoirs, dams, watershed protection interests, and filtration facilities of the city;
- (2)ensure that the water supplied by the city complies with all state and federal water quality standards;
- (3)construct, maintain, repair and replace city sanitary and storm sewers, drains, pump stations and sewage treatment facilities;
- (4)perform catch-basin cleaning, pumping station maintenance, inspection and diagnosis of the sewer systems, general infrastructure maintenance, easement maintenance and clearing and flood control, including street drainage;
- (5)ensure that the discharges from the sewer and storm drains of the city comply with all state and federal water quality standards;
- (6)represent the city as a member of the Upper Blackstone Water Pollution Abatement District; and,
- (7)collect, recycle and dispose of household waste products programs of the city
- (8)maintain and repair city vehicles;
- (9)construct, maintain, repair and replace city highways, bridges, streets and sidewalks, including street lighting;
- (10) manage and maintain all highways, streets, sidewalks and bridges belonging to the city, including all snow removal activities related thereto;
- (11) keep a separate record of the names of all streets which shall be accepted, laid out and established;
- (12) keep a record of all sidewalks that now are or hereafter may be laid out and established by the city council, including the width, height and grade of the same and setting boundaries and measurements thereof, with the date of such laying out;
- (13) administer the collection, recycling and disposal of household solid waste programs of the city, including the distribution and

sale of approved trash disposal bags, recycling bins and the like;

- (14) implement, enforce and propose changes to the policies, practices, ordinances and laws governing the collection, recycling and disposal of household solid waste;
- (15) organize and operate bulk collection, household hazardous waste collection and educational programs;
- (16) have charge of all traffic control devices, signage and on-street parking control facilities and equipment;
- (17) maintain the parking ordinance schedules of the city;
- (18) enforce the parking ordinances of the city with the issuance of parking violation notices by civilian personnel;
- (19) maintain a traffic control plan for the city and make recommendations on any proposal which may affect such a plan;
- (20) serve as the clerk and otherwise administer the operations of the off-street parking board; and,
- (21) perform the duties and responsibilities listed in section 5(b)(1-10) above.

(c) *Pavement Markings.* The director of traffic engineering, with the approval of the commissioner, shall have authority to locate, place and designate on public highways, within the city, such pavement markings on highways as he or she shall deem necessary, proper and expedient, but in accordance with section two of chapter eighty-five of the General Laws, in addition to those markings that the city council shall from time to time ordain.

## **§ 8. Engineering & Architectural Services Division**

(a) *Division Head.* The assistant commissioner of engineering & architectural services shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The assistant commissioner of engineering & architectural services shall:

- (1) provide engineering services, make all surveys, measurements, levels and estimates and keep all plans for all highways, streets, sidewalks, parks, recreation facilities, bridges, dams, the sewer systems, the watershed and water filtration and distribution systems, recycling and waste disposal facilities, hope cemetery and other engineering structures that may be under the care, custody and control of the department;
- (2) develop, implement, manage and conduct capital projects for any city facility under the care, custody and control of the commissioner and, when requested by the commissioner, for any other city facility, or any group thereof as determined by the city manager, including those now under the care, custody and control of the Worcester Redevelopment Authority, Worcester Regional Airport Commission, the Civic Center Commission, the Memorial Auditorium Trustees, the Lincoln Square Memorial Trustees; and, the Elder Affairs Commission (senior center);

- (3) administer the award and implementation of contracts concerning any capital project; provided, however, that in the case of any such contract involving property under the care, custody and control of any city officer, agency, board of commission, other than the department of public works and parks, no such contract shall be presented for the approval of the commissioner and city manager unless the assistant commissioner of engineering & architectural services has received a written authorization from the chief financial officer that sufficient funds have been appropriated either to the department of public works and parks, or the department, agency, board or commission with care of the facility;
- (4) provide architectural design and construction management services on any city capital facility project, such services to include:
  - (A) the preparation of construction plans and specifications in compliance with all applicable building and engineering codes and engineering and architectural standards;
  - (B) the preparation and filing of applications for any and all permits and approvals necessary to implement and complete any capital facility project;
  - (C) the administration of the public bidding laws for the award of capital facility improvement contracts
  - (D) the preparation of feasibility studies, master plans, building programs, engineering studies, environmental assessments, cost estimates, conceptual design and design development plans and the like; and,
  - (E) construction management services as defined in chapter one hundred ninety-three of the acts of two thousand and four.
- (5) serve as the clerk and keeper of the records of the designer selection board;
- (6) maintain the parking ordinance schedules of the city;
- (7) enforce the parking ordinances of the city with the issuance of parking violation notices by civilian personnel;
- (8) maintain a traffic control plan for the city and make recommendations on any proposal which may affect such a plan;
- (9) serve as the clerk and otherwise administer the operations of the off-street parking board;
- (10) serve as the clerk and keeper of the records of the conservation commission; and,
- (11) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Consultation with Disabilities Commission.* At the earliest practical stage in any capital project, the assistant commissioner of operations, or his or her designee, shall review the plans for any such project with the commission of disability established by these ordinances to explain the compliance of the plans with architectural access regulations and codes and to ascertain whether any changes in such plans are feasible to improve building and facility access beyond that which said regulations and codes may require.

**§ 9. Parks Division**

(a) *Division Head.* The assistant commissioner of parks shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The assistant commissioner of parks shall:

- (1) maintain and manage all of the city parks and playgrounds, including city hall and the common, together with such other properties and facilities as may be placed under the responsibility of the division;
- (2) issue, under general regulations adopted by the parks and recreation commission, permits and licenses for the use of the parks, recreation and other facilities under the care of the division;
- (3) inform the public about the parks and recreation programs and systems;
- (4) have charge of Green Hill Golf Course facility and operate it as an enterprise on behalf of the city;
- (5) maintain and manage Hope Cemetery;
- (6) supervise the conduct of internments;
- (7) apply funds deposited with the city treasurer for the preservation, care, improvement or embellishment of any public burial place in accordance with law; and,
- (8) administer and serve as the keeper of the records of the Parks & Recreation Commission and the Hope Cemetery Commission; and,
- (9) perform the duties and responsibilities listed in section 5(b)(1-10) above.

**§ 10. Civic Center Commission**

(a) *Establishment.* Under authority of chapter 216 of the Acts of 1976, as amended, and Article X, § 10-6(a)(2), of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Civic Center Commission" ("commission").

(b) *Membership.* The commission shall consist of five persons, residents of the city, who shall be appointed by the city manager with the approval of the city council. The members of the commission shall serve for terms of five years. The terms shall be staggered such that one term expires on October fourth of every year. The chair of the commission shall be designated by the city manager.

(c) *Duties & Responsibilities.* The board shall:

- (1) have care, custody and control of the arena and convention center facility known as the "DCU Center" and such other facilities as the city council may from time to time place under the care, custody and control of the commission;

- (2)perform and exercise the authority granted by the duties prescribed in chapter 216 of the Acts of 1976; and,
- (3)adopt rules and regulations in accordance with law for the conduct of its affairs and the operation of any facility under its care, custody and control; and,
- (4)perform such other duties as may be prescribed by law.

#### **§ 11. Conservation Commission**

(a) *Establishment of Conservation Commission.* Under authority of General Laws chapter forty, section eight C, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a regulatory board of the city to be known as the "Conservation Commission".

(b) *Membership.* The conservation commission shall consist of seven members who shall be appointed by the city manager for a term of three years. The terms shall expire on September thirtieth of each year and shall be staggered such that two terms expire each year for two years and three terms shall expire every third year.

(c) *Duties & Responsibilities.* It shall be the duty and responsibility of the conservation commission to perform all duties prescribed by General Laws, chapter forty, section eight C; the city wetlands ordinance, and, all such other duties as may be prescribed by law.

#### **§ 12. Designer Selection Board**

(a) *Establishment of the Designer Selection Board.* Under authority of Article Six of the Home Rule Charter and in compliance with General Laws chapter seven, section thirty-eight K, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Designer Selection Board" ("board").

(b) *Membership.* The board shall consist of five regular members and three alternate members designated by the city manager from existing regular employees of the city. The city manager shall from time to time select one member to be the chair.

(c) *Duties & Responsibilities.* The board shall have the duty and responsibility to carry-out the selection procedures adopted by executive order of the city manager relative to the award of design services contracts as required by G.L. chapter seven, section thirty-eight A and one-half and to perform such other duties and assignments as the city manager may request.

#### **§ 13. Hope Cemetery Commission**

(a) *Establishment of Hope Cemetery Board.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Hope Cemetery Board" ("board").

(b) *Membership.* The Hope Cemetery Board shall consist of five members appointed by the city manager for three year terms. The terms shall be

staggered such that two terms shall expire on December thirty-first for two successive years and one term shall expire on December thirty-first every third year.

(c) *Duties & Responsibilities.* It shall be the duty and responsibility of the board to advise and make recommendations to the city manager and the Commissioner of Parks on matters affecting Hope Cemetery, including the use of Cemetery land and the conduct of internments.

#### **§ 14. Lincoln Square Memorial Board**

(a) *Establishment.* Under authority of General Laws chapter forty-one, section one hundred five, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Board of Trustees for the Lincoln Square Memorial" ("board").

(b) *Membership.* The board shall consist of five members appointed for three year terms by the city manager. The terms shall be staggered such that two terms shall expire on August thirty-first of two consecutive years and one term shall expire on August thirty-first of the following year.

(c) *Duties & Responsibilities.* The board shall have care, custody and control of the Lincoln Square Memorial for the men and women who served in the First World War for the United States of America and perform such other duties as may be prescribed by law.

#### **§ 15. Memorial Auditorium Board of Trustees**

(a) *Establishment.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Memorial Auditorium Board of Trustees" ("board").

(b) *Membership.* The board shall consist of five persons, residents of the city, who shall be appointed by the city manager for terms of five years staggered such that one term expires on November eleventh of every year. No more than three members of the board shall be veterans. The chair of the commission shall be designated by the city manager.

(c) *Duties & Responsibilities.* The board shall:

- (1) have care, custody and control of the Memorial Auditorium as a memorial to the inhabitants of the city who served in the armed forces during times of war;
- (2) perform and exercise the authority granted by chapter forty-one, section one-hundred and five, of the General Laws, or any such other duties as may be prescribed by law; and,
- (3) adopt rules and regulations in accordance with law for the conduct of its affairs and the operation of the Memorial Auditorium.

#### **§ 16. Off-Street Parking Board**

(a) *Establishment of the Off-Street Parking Board.* Under authority of chapter 365 of the Acts of 1955 and Article Ten, § 10-6(a)(3), of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Off-Street Parking Board" ("board").

(b) *Membership.* The board shall consist of five members appointed by the city manager for staggered terms of four years each. The terms shall be staggered such that one term shall expire every June thirtieth for four successive years and no term shall expire every fifth year. The city manager shall designate the chair of the board.

(c) *Duties & Responsibilities.* The board shall:

- (1) have care, custody and control of the off-street parking facilities of the city, which shall include surface parking lots (including meters), parking structures and parking garages;
- (2) set the fees for the use of off-street parking facilities at such rates that the revenue therefrom shall be adequate to cover the expenses of the city for off-street parking, as defined in chapter 365, Acts of 1955, as amended;
- (3) promulgate rules and regulations regarding the use and operation of the off-street parking facilities under its care, custody and control; and,
- (4) perform such other duties as may be prescribed by law.

(d) *Deposit of Receipts.* Unless otherwise provided by law, receipts from the use of off-street parking facility shall be collected and deposited with the city treasurer, who shall keep the same in a separate account known as the off-street parking fund to be expended in accordance with law.

## **§ 17. Parks And Recreation Commission**

(a) *Establishment of the Parks & Recreation Commission.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Parks & Recreation Commission" ("commission").

(b) *Membership.* The commission shall consist of seven members appointed by the city manager for three year terms. The terms shall be staggered such that two terms shall expire on April thirtieth for two successive years and three terms shall expire on April thirtieth every third year. The commission shall perform the duties and exercise the authority prescribed by law; provided, that the commission shall have no authority over matters involving Hope Cemetery.

(c) *Duties & Responsibilities.* The commission shall:

- (1) have general superintendence over the public parks and playgrounds of the city, including the golf course at Green Hill;
- (2) promulgate rules and regulations governing the use of the parks, playgrounds and facilities under its general

superintendence as such authority is granted by the  
General Laws chapter forty-five, section five;

- (3)make reports and recommendations to the commissioner  
concerning the acquisition of new parks and playgrounds;  
and,
- (4)perform such other duties as may be prescribed by law.

**Article 6. Police Department**

- § 1. Establishment
- § 2. Function
- § 3. Head of Department
- § 4. Authorized Positions
- § 5. Records of Persons Arrested
- § 6. Duties at Fires
- § 7. Assistance to Other Cities and Towns
- § 8. Auxiliary Police
- § 9. Special Police Officers
- §10. Constables
- §11. Excusing Members from Duty
- §12. Holiday and Overtime Pay
- §13. Off-Duty Employment of Police Officers
- §14. Uniforms and Vehicles
- §15. Rules and Regulations

Related Commission:

- § 16. License Commission
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Police Department" ("department").

**§ 2. Function**

It shall be the function of the department to provide law enforcement and police services for the city except as otherwise provided for in the Civil Defense Act, chapter 639, Acts of 1950, and to provide and maintain public safety communications services for the city.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the chief of police ("chief") who shall be appointed by, and shall serve at the pleasure of, the city manager, unless otherwise provided by law.

(b) *Duties and Responsibilities.* The chief shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;

- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) enforce all laws, ordinances, rules and regulations affecting the public;
- (5) receive and answer complaints of violations of law, ordinances, and rules and regulations affecting the public;
- (6) supervise and direct the officers and civilians in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (7) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the peace, security and good order of the city;
- (8) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (10) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (11) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (12) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (13) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council;
- (14) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (15) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;

- (16) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager; and,
- (17) perform all duties prescribed by chapter forty-one, section ninety-eight of the General Laws and the rules and regulations of the department.

(c) *Conflict with State Law.* Nothing in this section shall be deemed to conflict with the General Laws or abridge the powers and authority vested by the city charter in the city manager as the chief conservator of the peace of the city.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the chief of police and such deputy police chiefs, captains, lieutenants, sergeants and other officers and civilian employees as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Duties and Responsibilities of Deputy Chiefs and Subordinate Officers.* The deputy chiefs of police shall aid the chief in the performance of the duties and responsibilities prescribed by this section and shall perform any lawful act directed or commanded by the chief. All other officers of the department shall perform any lawful act directed or commanded by their superiors, in accordance with the rules and regulations of the department.

(c) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

#### **§ 5. Records of Persons Arrested**

The chief shall cause to be kept at police headquarters a complete descriptive list of each and every person arrested. Such list shall contain the arrested person's name, address, nativity, age, height, complexion, weight, color of hair and eyes, the amount of money and a list of other valuables found on such person, all offenses for which he or she has been arrested and any other information that the chief may deem appropriate. All of the above shall be entered and indexed in a book to be furnished by the city. Said book shall be delivered by each chief to his or her successor in office.

#### **§ 6. Duties at Fires**

(a) It shall be the duty of the department to aid the fire department by giving alarms in case of fire and clearing the streets and grounds in the immediate vicinity of the fire, so that the members of the fire department shall not be hindered in the performance of their duties.

(b) The officers of the department shall have the authority to rope off the streets and grounds in the vicinity of a fire or any other catastrophe or emergency and to prevent all persons, except members of the fire department and other emergency personnel, from passing inside the lines.

#### **§ 7. Assistance to Other Cities and Towns**

The chief is authorized to extend such aid as he may deem necessary to another city or town at the request of the city or town in suppression of riots and other forms of violence therein, provided, however, the chief shall receive prior approval of the city manager before extending assistance outside the greater Worcester area.

#### **§ 8. Auxiliary Police**

The city manager may appoint members of the auxiliary police as "special police officers," and the department may contract, subject to appropriation by the city council and upon approval of the city manager, for the voluntary service of said members of the auxiliary police and for the purchase of appropriate insurance coverage for such members while on duty and under the direction of the chief.

#### **§ 9. Special Police Officers**

The city manager may appoint special police officers for a term of a calendar year, and he may remove the same at any time. Special police officers shall have and exercise police powers only for the area designated by the city manager and shall be subject to such conditions as the city manager shall establish. No special police officer shall carry a weapon while on duty unless he has received special permission to do so by the chief. An application fee of fifteen dollars shall be paid by any person who applies for appointment as a special police officer.

#### **§ 10. Constables**

The city manager may appoint constables pursuant to the requirements of G.L. chapter forty-one, sections ninety-one and ninety-one B for a term of one year commencing on January first and ending at 11:59 p.m. on December thirty-first of each calendar year. No person who is not a resident of the city shall be eligible for appointment as a constable; provided, however, that the foregoing provision shall not apply to regular full-time employees of the city who are required by the terms of their employment with the city to become constables. The city manager shall, from time to time, as public good may require, establish the number of constables to be appointed in the city. The chief shall investigate each applicant's fitness and qualifications under law for appointment as a constable. Any applicant seeking appointment or reappointment shall pay an application fee of one hundred dollars. Each constable shall give the bond to the city in the amount required by the city, with sureties approved by the city, and shall file the bond, with the approval of the city manager endorsed thereon, with the city clerk.

#### **§ 11. Excusing Members from Duty**

The time and manner of excusing members of the department from duty shall be determined by the chief. A member so excused shall be exempt from duty and from attendance at a police station or other place, but otherwise shall be subject to all laws and rules and regulations relating to the members of the department. The chief shall have authority, whenever, in his or her judgment, any public emergency or any unusual demand for the services of the police requires, to prevent any members of the department from taking time off when the member is entitled thereto at the time assigned therefor, or to recall such uniform members back to duty for such duration and to such extent as the chief deems necessary.

#### **§ 12. Holiday and Overtime Pay**

For the purpose of computing holiday pay and overtime pay due police officers in accordance with the provisions of General Laws, chapter one hundred forty-seven, sections seventeen A and seventeen C, the words "police officer" shall be construed to include police chief, deputy chiefs, captains, lieutenants, sergeants and patrol officers.

#### **§ 13. Off-Duty Employment of Police Officers**

No police officer shall, during his or her off-duty hours, enter the employ of any person, firm, corporation, or engage in any gainful occupation without the express written permission of the chief. In granting of any such permission, the chief shall first determine that:

- (1) such employment or occupation will not impair the police officer's efficiency as a police officer;
- (2) such employment or occupation is not incompatible with his employment as a police officer nor tend to bring into disrepute the department; and,
- (3) such employment or occupation will not seriously impair or affect the employment of others engaged in like employment or occupation.

#### **§ 14. Uniforms and Vehicles**

The chief shall determine and authorize the type, style and color of uniforms of members of the police department and the color schemes, insignia, lighting attachments and identification of all motor vehicles of the police department; and, except as otherwise provided by law, no person shall wear a similar uniform or drive a similar motor vehicle that gives the impression of an official Worcester police uniform or motor vehicle. Uniforms and motor vehicles of any private police, security police, special police, civilian watchman, private guards, animal guards or other private persons, with or without police powers, including charitable or business corporations, that come within the above prohibition may be worn or driven if the use of such uniform or motor vehicle is approved in writing by the chief.

#### **§ 15. Rules and Regulations**

The city manager shall promulgate rules and regulations as may be deemed necessary for the department and its personnel.

## § 16. License Commission

(a) *Establishment of the License Commission.* Under authority of chapter 461 of the Acts of 1914 and section fifty-four of chapter 444 of the Acts of 1893, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a regulatory commission of the city to be known as the "License Commission" ("commission").

(b) *Membership.* The commission shall consist of three persons, residents of the city, who shall be appointed by the city manager. The members of the commission shall serve terms of four years, which shall begin on January first and end on December thirty-first four years hence, and shall be staggered as such that no two terms shall expire at the same time. Vacancies shall be filled for the unexpired portion of the term vacated. The city manager shall annually designate one member of the commission as its chair.

(c) *Duties & Responsibilities.* The commission shall have the duty and responsibility to:

- (1) perform all actions and issue licenses authorized by chapter one hundred thirty eight of the General Laws relative to the sale of alcoholic beverages, wines or malt beverages;
- (2) establish reasonable fares for the conveyance of passengers in taxicabs, liveries, or any other truck, wagon or vehicle licensed under these Revised Ordinances;
- (3) conduct hearings and decide questions of the revocation of any taxicab, livery or other vehicle license issued under these Revised Ordinances;
- (4) perform all actions and issue any other license required by the General Laws to be issued by a local license commission;
- (5) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (6) hear all appeals on decisions made by any licensing authority concerning any license issued under chapter eleven of these Revised Ordinances;
- (7) perform all duties required of it by any other provision of these Revised Ordinances;
- (8) perform any function or take any other action prescribed or authorized by law concerning the issuance of licenses by local licensing authorities; and,
- (9) make and issue rules and regulations in accordance with law for the conduct of its affairs.

**Article 7. Communications Department**

- § 1. Establishment
  - § 2. Function
  - § 3. Head of Department
  - § 4. Authorized Positions
  - § 5. Licenses
  - § 6. Conflict with State Law
  - § 7. Regulations
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Communications Department" ("department").

**§ 2. Function**

It shall be the function of the department to provide and maintain public safety communications services for the city.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by a communications director ("director"), who shall be appointed by and shall serve at the pleasure of the city manager.

(b) *Duties & Responsibilities.* The director shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) provide and maintain radio and telecommunications and services and facilities for all city departments and agencies including the school department;
- (5) operate and maintain a central communications center for all public safety communications, keep audio recordings of emergency telephone activity and public safety radio transmissions, and make the same available to public safety agencies as their needs might require;

- (6) supervise and direct the employees in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (7) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the peace, security and good order of the city;
- (8) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (10) identify, acquire, maintain and renew any license necessary or useful in carrying out the duties and responsibilities of this section;
- (11) allocate and assign various portions of the radio and telecommunications facilities of the city to the various city departments and agencies;
- (12) ensure compliance with all state or federal laws and regulations concerning the radio and telecommunications facilities and services provided by the department;
- (13) administer the department and its employees and, to inform the heads of city departments or divisions whenever employees of such departments or divisions fail to comply with applicable laws, regulations, training or practices required or recommended by the department;
- (14) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (15) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (16) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council;
- (17) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager; and,
- (18) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals

and objectives established for the department by the city manager.

**§ 4. Authorized Positions**

The department shall consist of the director and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

**§ 5. Licenses**

The director with the approval of the city manager, may issue licenses to any public or private entity interested in utilizing any radio or telecommunication service or facility under the care, custody and control of the department. No such license shall be issued unless 1) the director determines in writing that the service or facility usage permitted by the license shall not materially diminish the radio or telecommunications services or facilities required by city departments and agencies; and, 2) the licensee pays a license fee to the city. The director shall, with the approval of the city manager, establish appropriate fees for such licenses. Any license issue under this section shall not exceed a term of twelve months, but may be renewable or self-renewable for additional one year periods, and shall be revocable at the will of the director.

**§ 6. Conflict with State Law**

Nothing in this section shall be deemed to conflict with the General Laws or abridge the authority vested in the city manager, the chief of police, or the chief of the fire department.

**§ 7. Regulations**

The director may promulgate such rules and regulations as may be deemed necessary or proper to the purposes of this article.

**Article 8. Fire Department**

- § 1. Establishment
- § 2. Function
- § 3. Head of Department
- § 4. Authorized Positions
- § 5. Fire Prevention Bureau
- § 6. Training Bureau
- § 7. Maintenance Bureau
- § 8. Housing Division
- § 9. Authority of Chief at Fires & Emergencies
- §10. Disability of Chief
- §11. Advisory Board
- §12. Aid to Other Cities and Towns
- §13. Fire Inspection Companies
- §14. Excusing Uniform Members from Duty
- §15. Off-Duty Employment of Firefighters
- §16. Traffic Control by Uniform Members
- §17. Drawing Water from Hydrants or Reservoirs
- §18. Taking Department Property Out of the City
- §19. Rules and Regulations

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department to be known as the "Fire Department" ("department").

**§ 2. Function**

It shall be the function of the department to provide fire suppression and protection services, first responder and emergency response management services for the city.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the chief engineer who shall be known as the "fire chief" ("chief") who shall be appointed by, and shall serve at the pleasure of, the city manager, unless otherwise provided by law.

(b) *Duties and Responsibilities.* The chief shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and

requirements of the city manager, chief financial officer or the city auditor;

- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) perform all duties prescribed by chapters forty-eight and one hundred and forty-eight of the General Laws and by rules and regulations of the department;
- (5) provide fire protection, firefighting and other emergency service for the city, including, but not limited to, salvage and overhauling operations;
- (6) act as the agent of the city manager in the preparation, planning, organization, maintenance, administration and operation the emergency response management and civil defense duties and activities of the city as the same may be authorized or required by law, including chapter 639 of the Acts of 1950 and any regulations promulgated thereunder, or any declaration of emergency issued by the city manager, the governor or the president of the United States;
- (7) supervise and direct the officers and civilians in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department and providing each firefighter with a manual containing the rules and regulations of the department and pertinent ordinances and to enforce the same; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (8) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the safety, security and good order of the city;
- (9) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (10) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (11) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (12) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (13) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home

rule charter, the Constitutions and laws of the commonwealth and the United States of America;

- (14) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (15) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (16) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;
- (17) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager;
- (18) conduct the inspections prescribed in the General Laws and the fire prevention code; and
- (19) possess the duties and authorities of a forest warden as contained the General Laws, chapter 48, section eight through twenty-eight C.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the chief and such deputy chiefs, district chiefs, captains, lieutenants, firefighters and civilian employees as the city council, with the advice of the city manager, shall from time to time authorize.

(b) *Duties and Responsibilities of Deputy Chiefs and Subordinate Officers.* The deputy chiefs shall aid the chief in the performance of the duties and responsibilities prescribed by this section and shall perform any lawful act directed or commanded by the chief. All other officers of the department shall perform any lawful act directed or commanded by their superiors, in accordance with the rules and regulations of the department.

(c) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

#### **§ 5. Fire Prevention Bureau**

There is hereby established a fire prevention bureau within the department under the jurisdiction of the chief. The fire prevention bureau shall be in the charge of the chief inspector who shall be designated by the chief and shall:

- (1) administer the fire prevention bureau;
- (2) perform the inspection duties prescribed by the General Laws and the fire prevention code; and,

(3) perform such other duties as may be prescribed by the chief.

#### **§ 6. Training Bureau**

There is hereby established within the department a training bureau under the jurisdiction of the chief. The bureau shall be in the charge of a chief of training who shall be designated by the chief and shall:

- (1)administer the training bureau;
- (2)develop, deliver, test and document mandatory and non-mandatory firefighter development training programs to the members;
- (3)develop, test and document in-service training programs; and,
- (4)perform such other duties as may be prescribed by the chief.

#### **§ 7. Maintenance Bureau**

There is hereby established a maintenance bureau within the department, under the jurisdiction of the chief. The maintenance bureau shall be in the charge of the director of fire apparatus repair and maintenance who shall be designated by the chief and shall:

- (1)administer the maintenance bureau;
- (2)develop, test, repair, maintain, and document procedures that assure that apparatus and firefighting equipment belonging to the department are in proper working order;
- (3)maintain an inventory, including fire station supplies that will allow the department to function on a daily basis;
- (4)perform such other duties as may be prescribed by the chief.

#### **§ 8. Emergency Response Management Bureau**

There is hereby established an emergency response management bureau within the department, under the jurisdiction of the chief. The bureau shall be responsible for the operation and coordination of the emergency response management functions of the department and shall:

- (1)administer the emergency response management bureau;
- (2)develop, test, maintain, and document procedures and protocols for the coordination of state, local and federal agencies responding to any emergency as described herein;
- (3)develop, test, maintain, and document interoperability communications protocols for the coordination of state, local and federal agencies responding to any emergency;
- (4)provide training in emergency response matters for members of the department, members of other city departments, employees of any other city or town in Worcester County, volunteers and the public in general;
- (5)maintain an inventory of equipment and supplies which would be required during any emergency response;
- (6)maintain liaison with the state and federal civil defense and emergency management agencies and cooperate with such agencies

in carrying out the national program for civil defense and the state program for emergency management;

- (7) maintain complete records of all matters relating to any response to any such emergency, including records of all expenditures for salaries, overtime, supplies, services and equipment made or incurred as part of any such response;
- (8) perform such other duties as may be prescribed by the chief.

#### **§ 9. Authority of Chief at Fires & Emergencies**

The chief, or, in his absence, the officer in charge, shall have sole command at the location of any fire or during the emergency response as described in this section over all members of the department and all other persons who may be present and shall have authority to direct all measures for the extinguishment of fires, protection and preservation of property, preservation of order and the observance of laws, ordinances and rules and regulations respecting fires.

#### **§ 10. Disability of Chief**

The city manager shall determine what officer shall act, with full duties and authority, in the place of the chief or other officer during the absence or disability of such chief or other officer.

#### **§ 11. Advisory Board**

There shall be within the department an advisory board of chiefs, which shall act as an advisory board to the chief. The board shall consist of the deputy and district chiefs of the department, and the chief, who shall be its chair. The advisory board of chiefs shall meet only on the call of the chief and shall render such assistance or advice as the chief may request.

#### **§ 12. Aid to Other Cities and Towns**

The chief is authorized to extend such aid as he may deem necessary to another city, town, fire district or area under federal jurisdiction in the Central Massachusetts Regional Planning District or outside the district, with the approval of the city manager, but within the commonwealth for extinguishing fires therein.

#### **§ 13. Fire Inspection Companies**

It shall be the duty of the chief to divide the city into as many fire inspection areas as there are companies, and to assign an area to each company for inspection, according to the rules and regulations of the department. Any firefighter, while making such inspection, shall be in uniform and wear the badge of the department. Records of these inspections shall be kept at the office of the chief and shall be available for inspection by the city manager or the city council. The chief, in his annual report, shall give the results of these inspections by area, stating the number of inspections made and a list of cases requiring the enforcement of the provisions of the fire prevention code.

#### **§ 14. Excusing Uniform Members from Duty**

The time and manner of excusing uniform members of the department from duty shall be determined by the chief. A member so excused shall be exempt from duty and from attendance at a fire station or other place, but otherwise shall be subject to all laws and rules and regulations relating to a uniform member of the department. The chief shall have the authority, whenever in his judgment, any public emergency or any unusual demand for the services of the department requires, to prevent any uniform members of the department taking time off when the member is entitled thereto at the time assigned therefor or to recall such uniform member back to duty for such duration and to such extent as the chief deems necessary.

#### **§ 15. Off-Duty Employment of Firefighters**

No uniformed member of the department shall, during his or her off-duty hours, enter the employ of any person, firm, corporation, or engage in any gainful occupation without the express written permission of the chief. In granting of any such permission, the chief shall first determine that:

- (1) such employment or occupation will not impair the uniformed member's efficiency;
- (2) such employment or occupation is not incompatible with the uniformed member's employment as a firefighter nor tend to bring into disrepute the department; and,
- (3) such employment or occupation will not seriously impair or affect the employment of others engaged in like employment or occupation.

#### **§ 16. Traffic Control by Uniform Members**

Notwithstanding any contrary provisions of the Revised Ordinances, uniformed members of the department, if so authorized by the officer in charge, may direct traffic as may be required to permit fire vehicles to leave or enter a firehouse or to park at the scene of an emergency.

#### **§ 17. Drawing Water from Hydrants or Reservoirs**

No firefighter or any employee of the department shall draw water from the reservoirs or hydrants except in case of fire or other emergencies unless specifically authorized by the chief to do so.

#### **§ 18. Taking Department Property Out of the City**

No property belonging to the department shall be taken out of city limits unless by order of the chief or the city manager.

#### **§ 19. Rules and Regulations**

The city manager shall promulgate, with the approval of the city council, rules and regulations for the government of the department and its members.



**Article 9. Department of Inspectional Services**

- § 1. Establishment
- § 2. Function
- § 3. Head of Department
- § 4. Authorized Positions
- § 5. Organization of Department
- § 6. Administration Division
- § 7. Building and Zoning Division
- § 8. Housing Division
- § 9. Health Inspection Division

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department Inspectional Services" ("department").

**§ 2. Function**

It shall be the function of the department to provide services relating to the state building code, the zoning ordinance, the architectural access code, the state sanitary code and all other laws, codes, regulations and ordinances relating to health and human safety.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the commissioner of inspectional services ("commissioner") who shall be appointed by, and shall serve at the pleasure of, the city manager.

(b) *Duties and Responsibilities.* The commissioner shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department and its divisions;
- (2) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3) keep the city manager informed of the activities and needs of the department and provide the city manager with

- information developed by the department which would have a material impact on the financial condition of the city;
- (4) attend various neighborhood and community group meetings as directed by the city manager;
  - (5) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
  - (6) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
  - (7) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
  - (8) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
  - (9) except in the case of property placed under the care, custody and control of the board of library trustees, have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department, or any of its divisions, by the city manager or the city council;
  - (10) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and,
  - (11) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
  - (12) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
  - (13) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the commissioner and include a building commissioner, a director of housing, a director of health inspections and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the department shall be

filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

## § 5. Organization of Department

(a) *Establishment of Divisions.* The department shall be organized into the following divisions for the following purposes:

*Administration Division* - to assist the commissioner in the performance of the duties and responsibilities as the of the head of the department;

*Building and Zoning Division* - to provide information, assistance and enforcement of building, zoning, housing and architectural access codes, laws, ordinances and regulations.

*Housing Division* - to focus on issues affecting the housing stock and to provide information, assistance and enforcement of the state sanitary code and any other state law or city ordinance, rule or regulation concerning places of human habitation.

*Health Inspection Division* - to provide inspections, education and enforcement of all laws, codes, regulations and ordinances relating to human health and safety.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division shall also have the duty and responsibility to:

- (1)assist the commissioner in the performance of duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the commissioner or otherwise prescribed by law;
- (2)manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the commissioner;
- (3)supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the commissioner up to and including suspensions for no more than five working days;
- (4)administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5)keep the commissioner informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6)recommend to the commissioner implementing the rules, policies and practices governing the operations of the department as are approved by the commissioner; prepare,

implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the commissioner;

- (7) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the commissioner;
- (8) make recommendations to the commissioner on changing or initiating any policy, operation, program or service to the public;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the commissioner; and,
- (10) maintain any property assigned to the division by the commissioner.

(c) *Management of Multiple Divisions.* The commissioner, with the advice and consent of the city manager, may also serve as the head of any division and may assign the responsibilities of any two or more divisions to one individual in the service of the department.

#### **§ 6. Administration Division**

(a) *Division Head.* The director of administration shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of administration of the department shall:

- (1) manage the processing of payroll, purchasing, contracts, and personnel documentation for the department; and,
- (2) assist the commissioner in the performance of his or her duties and responsibilities as the head of the department; and,
- (3) perform the duties and responsibilities described in section 5(b)(1-10) above.

#### **§ 7. Building and Zoning Division**

(a) *Division Head.* The building commissioner shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The building commissioner shall be responsible for the performance of the functions of the division and shall:

- (1) possess and exercise all of the powers, duties and responsibilities vested by section three of chapter one hundred forty three of the General Laws in a building commissioner, including the authority to:

- (A) administer and enforce the state building code pursuant to chapter one hundred forty three of the General Laws and the regulations adopted pursuant thereto;
  - (B) administer and enforce the provisions of the architectural access board pursuant to chapter twenty-two, section thirteen A, of the General Laws and the regulations adopted pursuant thereto;
  - (C) administer and enforce the Zoning Ordinance adopted pursuant to chapter forty A of the General Laws; and,
  - (D) perform, in the absence of the director of housing, the duties vested by chapter one hundred twenty-seven A of chapter one hundred eleven of the General Laws, or any other statute, in a commissioner of housing inspection.
- (2) provide information and assistance concerning the potential application of the state building code, the architectural access regulations, the zoning ordinance and the state sanitary code to any person interested in or planning on developing, renovating or constructing new or existing buildings or property;
  - (3) exercise every authority provided by law to enforce building, housing and architectural access codes, laws, ordinances and regulations;
  - (4) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and,
  - (5) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Reporting Authority.* When administering and enforcing the state building code as well as the requirements of the architectural access board, the building commissioner shall be directly responsible to the city manager. In all other respects, including the administration and enforcement of the zoning ordinance, the building commissioner shall report to the commissioner. This provision shall not apply when the positions of commissioner and building commissioner are held by the same individual.

## **§ 8. Housing Division**

(a) *Division Head.* The director of housing shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

- (b) *Duties & Responsibilities.* The director of housing shall:
- (1) perform the duties vested by chapter one hundred twenty-seven A of chapter one hundred eleven of the General Laws, or any other statute, in a commissioner of housing inspection;
  - (2) provide information and assistance concerning the potential application of the state sanitary code and any ordinance, rule or regulation of the city to any person interested in or planning on developing, renovating or constructing new or existing housing ;
  - (3) manage the programs and activities of the division;

- (4)perform such additional duties as may be assigned from time to time by the commissioner; and,
- (5)perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 9. Health Inspection Division**

(a) *Division Head.* The director of health inspection shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of health inspection shall:

- (1)administer and manage the regulatory and inspectional services programs and activities of the division under the administrative superintendence of the commissioner of inspectional services, such programs and activities to include air & water safety and quality, lead paint, food protection, animal control and weights and measures;
- (2)administer, manage, implement and enforce the policies and regulations adopted by the commissioner of public health acting as the board of health established under article one of these ordinances;
- (3)keep the commissioner of inspectional services informed of the activities of the division and the information gathered by the division concerning health inspection and enforcement issues;
- (4)coordinate the department's inspection and enforcement activities with other agencies;
- (5)manage the programs and activities of the division;
- (6)investigate complaints and enforce the laws, ordinances, codes or regulations administered by the division; and,
- (7)perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Inspectors of Animals.* Inspectors of animals shall be appointed annually by the city manager for a term of one year in accordance with the General Laws, chapter one hundred twenty nine, section fifteen.

**Article 10. Department of Health & Human Services**

- § 1. Establishment
- § 2. Function
- § 3. Head of Department
- § 4. Authorized Positions
- § 5. Organization of Department
- § 6. Administration Division
- § 7. Disability Division
- § 8. Elder Affairs Division
- § 9. Human Rights Division
- §10. Public Health Division
- §11. Transitional Housing Services Division
- §12. Veterans' Services Division

**Related Boards and Commissions:**

- §13. Board of Health
- §14. Disability Commission
- §15. Early Scholarship Committee
- §16. Elder Affairs Commission
- §17. Homelessness Commission
- §18. Human Rights Commission
- §19. Public Library Directors
- §20. Status of Women Committee

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Health & Human Services" ("department").

**§ 2. Function**

It shall be the function of the department to improve the human spirit and condition of all residents of the city by promoting the public health, providing for the elderly and veterans, advancing human rights and the equality of women and the disabled and supporting the operation of the public library.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by a commissioner of health and human services ("commissioner") who shall be appointed by, and shall serve at the pleasure of, the city manager.

(b) *Duties and Responsibilities.* The commissioner shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations,

activities and facilities of the department and its divisions;

- (2) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;
- (4) attend various neighborhood and community group meetings as directed by the city manager;
- (5) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (6) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (7) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (8) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (9) except in the case of property placed under the care, custody and control of the board of library trustees, have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department, or any of its divisions, by the city manager or the city council;
- (10) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and,
- (11) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (12) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (13) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the

goals and objectives established for the department by the city manager.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the commissioner and include a commissioner of public health, a director of elder affairs, a human rights director, a head librarian, a director of veterans affairs and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the department, except that of the head librarian, shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

#### **§ 5. Organization of Department**

(a) *Establishment of Divisions.* The department shall be organized into the following divisions for the following purposes:

*Administration Division* - to assist the commissioner in the performance of the duties and responsibilities as the of the head of the department;

*Disability Division* - to bring about full and equal participation in all aspects of life in the city for all people with disabilities;

*Elder Affairs Division* - to enhance the quality of life for elders in Worcester by identifying needs, developing and implementing programs and services to meet those needs, advocating on behalf of elders and operating a focal point senior center within the city;

*Human Rights Division* - to assure that every individual shall have equal access to and benefit from all public services, to protect every individual in the enjoyment and exercise of civil rights and to encourage and bring about mutual understanding and respect among all individuals of the city;

*Public Health Division* -to preserve, promote and protect the physical and mental health of the people of the city by providing public health services for the city of Worcester;

*Public Library Division* - to provide library services to the residents of Worcester;

*Scholarships Division* - to select the recipients of various scholarship funds and trusts held by the city, including the Thomas J. Early Scholarship Fund;

*Status of Women Committee Division* - to formulate, encourage, promote and monitor programs and policies relating to the status of women in the city;

*Transitional Housing Services Division* -to coordinate the provision of multiple government-based services and programs to individuals and families requiring immediate housing assistance and to administer the affairs of the commission on homelessness; and,

*Veterans' Services Division* - to provide services to veterans.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division (except for the head librarian as regards items (6) and (8) below) shall also have the duty and responsibility to:

- (1) assist the commissioner in the performance of duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the commissioner or otherwise prescribed by law;
- (2) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the commissioner;
- (3) supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the commissioner up to and including suspensions for no more than five working days;
- (4) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5) keep the commissioner informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6) recommend to the commissioner implementing the rules, policies and practices governing the operations of the department as are approved by the commissioner; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the commissioner;
- (7) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the commissioner;
- (8) make recommendations to the commissioner on changing or initiating any policy, operation, program or service to the public;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the commissioner; and,
- (10) maintain any property assigned to the division by the commissioner.

(c) *Management of Multiple Divisions.* The commissioner, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the department.

**§ 6. Administration Division**

(a) *Division Head.* The director of administration shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of administration of the department shall:

- (1)manage the processing of payroll, purchasing, contracts, and personnel documentation for the department; and,
- (2)assist the commissioner in the performance of his or her duties and responsibilities as the head of the department; and,
- (3)perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 7. Disability Division**

(a) *Division Head.* The commission on disability director shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The commission on disability director shall:

- (1)assist the commission on disability in the performance of its legal duties and responsibilities;
- (2)administer the affairs of the commission on disability and serve as its keeper of the records; and,
- (3)perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 8. Elder Affairs Division**

(a) *Division Head.* The director of elder affairs shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of elder affairs shall:

- (1)administer the affairs of the commission and the senior center committee;
- (2)administer the programs and activities of the division;
- (3)collect facts and statistics and to conduct special studies affecting the health and welfare of the elderly population of the city;
- (4)encourage the development of programs for the elderly in Worcester;
- (5)identify the needs of the community's older population;

- (6) educate and to enlist the support of the community on the needs of the elderly;
- (7) promote the coordination of programs designed for the elderly in Worcester;
- (8) advise the public agencies of the city on matters affecting the elderly;
- (9) prepare reports to the commission and the city manager on state and federal legislation concerning the elderly, including but not limited to state and federal funds and programs available to the elderly;
- (10) cooperate with the executive office of elder affairs of the commonwealth;
- (11) manage and operate a senior center facility, which shall be the land and buildings acquired by the city of Worcester and located on Providence Street between Winthrop Street and Spurr Street ("senior center");
- (12) encourage and assure within the senior center the maximum level of coordination, collaboration and co-location of individuals and organizations, public and private, engaged in the delivery of services, programs and activities of interest to elders, such as: health insurance, caregiver, benefit and employment counseling services; medical and screening clinics; information and referral services on the issues of health, housing, transportation, education, legal assistance, consumer protection, public safety and support groups; on-site and delivered meals and emergency food distribution; literacy, citizenship and English-as-a-second-language instruction; vocational, cultural and computer programs; senior outreach; senior travel; recreational and wellness programs; dances; gardening; story telling; concerts and entertainment; transportation; day care for elders; and, child care for grandparents raising grandchildren;
- (13) execute on behalf of the department any contract, lease or any other legal document. Any such document involving two thousand dollars or more shall not be binding unless it is also signed by the city manager; and,
- (14) perform the duties and responsibilities described in section 5(b)(1-10) above.

## **§ 9. Human Rights Division**

(a) *Division Head.* The director of human rights shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of human rights shall:

- (1) administer the affairs of the human rights commission and serve as the keeper of its records;
- (2) manage the programs and activities of the division;
- (3) have the power and duty to initiate complaints and investigations of discriminatory practices, report his or her

findings to the commission and attempt mediation or conciliation of any complaint alleging discrimination;

- (4)perform such additional duties consistent with the human rights ordinances as may be assigned from time to time by vote of the commission; and,
- (5)perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Human Rights Policy.* It is the policy of the city to assure that every individual shall have equal access to and benefit from all public services, to protect every individual in the enjoyment and exercise of civil rights and to encourage and bring about mutual understanding and respect among all individuals of the city. It is clear that behavior which denies equal treatment to any of our citizens as a result of their race, color, religious creed, status, sexual orientation, disability or source of income undermines civil order and deprives persons of the benefits of a free and open society. Nothing in this section shall be constructed as supporting or advocating any particular religious view or lifestyle. To the contrary, it is the intention of this section that all persons be treated fairly and equally and it is the expressed intent of this ordinance to bring about the elimination of prejudice, intolerance, bigotry, discrimination and the disorder occasioned thereby.

#### **§ 10. Public Health Division**

(a) *Division Head.* The director of public health shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of public health shall:

- (1)administer and manage the tobacco control unit, MMRS/bio unit, the public health nursing, tobacco and burial permit units, including such educational, behavioral, prevention and tracking programs and activities related to any of these functions of as may be developed by the division under the general superintendence of the commissioner of public health;
- (2)keep the commissioner of public health informed of the activities of the division and the information gathered by the division concerning public health issues;
- (3)administer the affairs of the board of health and serve as the keeper of its records, minutes and other papers; and,
- (4)perform the duties and responsibilities described in section 5(b)(1-10) above.

#### **§11. Transitional Housing Services Division**

(a) *Division Head.* The director of transitional housing services shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director shall:

- (1)develop, maintain and implement plans for the relocation of individuals and families displaced from their housing due to code or housing enforcement or other actions of the city;
- (2)assist the Commission on Homelessness in the implementation, monitoring and updating of the Three Year Plan to End Homelessness in Worcester as originally developed by the city manager's task force on homelessness and presented to the city council on December 3, 2007;
- (3)conduct periodic reviews of the needs of homeless individuals and families;
- (4)assist the Commission on Homelessness in the development of performance measurements and benchmarking criteria to quantify the impact of homelessness programs;
- (5)assist the Commission on Homelessness in the development of recommendations to the city manager on legislative initiatives consistent with the Three Year Plan to End Homelessness in Worcester;
- (6)identify and coordinate the provision of multiple government-based services and programs to local youth and collaborate and coordinate with existing non-governmental organizations and agencies, the business community and service providers involving homelessness programs and services;
- (7)administer and keep the records of the Commission on Homelessness; and,
- (8)perform the duties and responsibilities described in section 5(b)(1-10) above.

## **§ 12. Veterans' Services Division**

(a) *Division Head.* The director of veterans' services shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director shall:

- (1)administer and manage the programs and activities of the division under the general superintendence of the commissioner;
- (2)perform all duties prescribed by chapter one-hundred fifteen of the General Laws;
- (3)administer the disbursement of veterans' benefits;
- (4)provide services to veterans, members of the armed forces, their families and their dependents;
- (5)provide information and advice to veterans as may be necessary to enable them to procure the benefits to which they are entitled;
- (6)maintain close cooperation with state and federal agencies established for the aid of veterans; and,

(7)perform the duties and responsibilities described in section 5(b)(1-10) above.

### **§ 13. Board of Health**

(a) *Establishment.* Under authority of Articles Six and Ten of the Home Rule Charter and the provisions of chapter one hundred eighty-one of the acts of nineteen hundred and fifty-three, as amended by chapter seven hundred ninety-seven of the acts of nineteen hundred seventy, there is hereby established within the office a board of the city to be known as the "Board of Health" ("board of health" or "board").

(b) *Membership.* The board shall consist of four members appointed by the city manager for staggered terms of three years each. One member shall have received the degree of doctor of medicine from a medical school classified by the American Medical Association as a Grade A school and another member shall have received a degree in dentistry from a dental school classified by the American Medical or Dental Association as a grade A school.

(c) *Duties & Responsibilities of the Board of Health.* The board shall assist and act with the commissioner as provided in chapter 181 of the acts of 1953, as amended by chapter 797 of the acts of 1970.

(d) *Commissioner of Public Health.* There shall be contained in the table of authorized positions for the office a commissioner of public health who shall be appointed by, and serve at the pleasure of, the city manager for a three year term in accordance with the qualifications and requirements of chapter 181 of the acts of 1953, as amended. The commissioner of public health shall serve, *ex officio*, as the chair of the board of health but shall not be a member of the board and shall have no vote unless the board be equally divided.

(e) *Duties & Responsibilities of the Commissioner of Public Health.* The commissioner shall possess and exercise the power and duty to:

- (1)preserve, promote and protect the physical and mental health of the inhabitants of the city by developing and revising a public health program of the city and providing advice to the city manager on public health issues;
- (2)perform all duties and exercise all the powers vested in a commissioner of public health or a board of health by chapter one hundred eleven of the General Laws, or any other general or special law;
- (3)provide programmatic supervision over the activities of the public health division established under this article;
- (4)promulgate guidelines and regulations concerning the medical activities of the division of public health division established under this article; and,
- (5)perform such other duties as assigned by the city manager or as may be prescribed by law.

### **§14. Disability Commission**

(a) *Establishment of Commission on Disability.* Under authority of Article Six of the Home Rule Charter there is hereby established under the

jurisdiction of the city manager an advisory board of the city to be known as the "Worcester Commission on Disability" ("commission").

(b) *Membership.* The commission shall consist of seven members appointed by the city manager for three-year terms. The terms shall be staggered such that no fewer than two terms shall expire on May thirty-first of each year. A majority of said commission members shall consist of people with disabilities, one member may be a member of the immediate family of a person with a disability. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term.

(c) *Associate Members.* The city manager may appoint up to five associates of the commission, a majority of whom shall be persons with disabilities. The terms of associates shall expire on May thirty-first of each year and shall be staggered such that no more than two terms shall expire in any given year. Associates shall not be deemed members of the commission; however, whenever any member of the commission is absent from any meeting of the commission, associates shall, upon designation by the chairperson and by order of their appointment, fill such vacancies and shall have authority to participate and vote during such meeting. In making any such designation, the chairperson shall identify the member of the commission in whose stead the associate shall act. Should any absent member arrive at a meeting after an associate has been designated to act in his or her stead, the authority of the associate to act shall cease and the member shall take his or her place with the commission.

(d) *Duties & Responsibilities of the Commission.* The commission shall:

- (1) choose annually from among its regular members a chairperson, vice-chairperson and secretary, provided that it may designate the director of the commission on disability as its secretary;
- (2) research local problems of people with disabilities;
- (3) coordinate the activities of other local groups or individuals organized or committed to meet the needs of people with disabilities;
- (4) carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts Office on Disability;
- (5) review and make recommendations about policies, procedures, services and activities of city departments and agencies as they affect people with disabilities;
- (6) work in cooperation with city departments and agencies to bring about full and equal participation by people with disabilities;
- (7) advise and assist city officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities;
- (8) influence city policies and coordinate with programs of the Massachusetts Office on Disability;
- (9) encourage public awareness of disability issues;
- (10) provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses and organizations in all matters pertaining to disability;

- (11) recruit and recommend prospective commission members to the city manager; and,
- (12) submit an annual report to the city manager stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the status of persons with disabilities in Worcester.

(e) *Commission to Act Only By Majority Vote.* All actions of the commission shall be taken by majority vote of the commission members present and shall be recorded in the minutes of its meetings. No member of the commission shall claim or assert any regulatory or enforcement authority by virtue of membership on the commission. In no event shall any member of the commission claim to be acting on behalf of the commission unless such action was authorized in advance by vote of the commission.

(f) *Commission Attendance Required.* Any member who fails to attend any three consecutive meetings of the commission shall be deemed to have abandoned his or her membership on the commission. The commission may then recommend to the city manager that such position be declared vacant and request that a replacement be appointed and, if the city manager concurs with that recommendation, he shall then notify the member of his or her removal and proceed to fill the vacancy.

(g) *Powers & Duties of the Chair.* The chairperson of the commission shall have the following powers, duties and responsibilities:

- (1) establish the time, place and agenda for commission meetings in coordination with other commission members;
- (2) preside over meetings of the commission; and,
- (3) establish sub-committees of the commission and appoint members of the commission thereto.

(h) *Powers & Duties of the Vice-Chair.* The vice chairperson of the commission shall exercise the powers, duties and responsibilities of the chairperson in the event of the absence of the chairperson at any commission meeting or function or in the event of a vacancy in that position.

(i) *Duties of the Secretary of the Commission.* The secretary of the commission, either personally or through the commission on disability director, shall:

- (1) prepare and maintain minutes of all meetings of the commission and any of its sub-committees, which minutes shall include the date, time, place, members present or absent and the actions taken;
- (2) ensure that notice of all meetings is posted with the city clerk at least forty-eight hours before each meeting of the commission or any of its sub-committees;
- (3) maintain a file including all the correspondence and other papers received or generated by the commission or any of its sub-committees; and,
- (4) issue certified copies of any commission records or papers as required by law.

(j) *Acceptance of Grants.* The commission, with the approval of the city manager and a vote of the city council as provided in G.L. c. 44 § 53A, may accept in the name of the city of Worcester grants or gifts of funds from the federal government, a charitable foundation, a private corporation, an individual, or from the commonwealth or any city, town or county thereof. All grants or gifts shall be deposited in the city treasury and may be expended without further appropriation by the commission through contracts signed by the chairperson of the commission and the city manager as required by article 5-7 of the city charter or, if the amount is less than two thousand dollars, in accordance with the regulations issued or adopted by the city manager.

#### **§ 15. Early Scholarship Committee**

(a) *Establishment of Early Scholarship Committee.* Pursuant to chapter 194 of the Acts of 1986, as amended by chapter 712 of the Acts of 1987, which added section three C of chapter sixty of the General Laws of Massachusetts, as accepted by the city by vote of the city council on January 13, 1987, and under authority of Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a scholarship committee of the city to be known as the "Early Scholarship Committee" ("committee").

(b) *Membership.* The committee shall consist of five residents of the city, one from each election district, appointed by the city manager for terms of three years. The terms shall be staggered such that two terms shall expire each July thirty-first for two consecutive years and one term shall expire on July thirty-first of the next year. The superintendent of schools of the city, or his or her designee, shall also serve on the committee as an ex-officio member.

(c) *Duties & Responsibilities.* The committee shall serve in the memory of former Mayor and City Councilor Thomas J. Early, select the recipients of the amount of financial aid from the scholarship fund created by section three C of chapter sixty of the General Laws and perform such other functions, including the selection of scholarship recipients from other sources of funds, as may be designated by the city manager.

(d) *Selection Criteria.* The committee may adopt any criteria to assist in the selection of recipients, subject to any relevant ordinance and further subject to the following criteria:

- (1) the recipients of financial aid must be residents of the city at the time the financial aid is first awarded and have been accepted to pursue education beyond the secondary school level at an institute deemed accredited by the committee; and,
- (2) the committee shall take into consideration each recipients' financial need, character, scholastic record and involvement in community work as well as extracurricular school activities.

(e) *Distribution of Aid.* The committee may distribute financial aid from both interest and principal of the fund, without further appropriation. The committee shall establish a procedure for determining at least on an annual basis the amounts or percentage of the funds that shall be authorized for distribution and for notifying the city treasurer or other investing officer or agency so that the funds may be made available in a timely manner and with a minimum of penalties.

#### **§ 16. Elder Affairs Commission**

(a) *Establishment of Commission on Elder Affairs.* Under authority of the General Laws, chapter forty, section eight B, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Commission on Elder Affairs" ("commission").

(b) *Membership on the Commission on Elder Affairs.* The commission shall consist of fifteen members appointed by the city manager for terms of three years. The terms shall be staggered such that five terms shall expire on October thirty-first of each year.

(c) *Membership on the Senior Center Committee.* The city manager shall designate five members of the commission to serve as a standing committee of the commission and known as the "senior center committee".

(d) *Appointment of Chairs.* The city manager may, from time to time, designate one member of the commission as the chair of the commission and one member of the senior center committee of the commission as the chair of the senior center committee.

(e) *Duties & Responsibilities of the Commission on Elder Affairs.* The commission shall:

- (1) have general superintendence of the senior center;
- (2) make and enforce such rules and regulations as may be necessary or desirable for the efficient operation of the senior center; provided, that no such rule or regulation shall be voted upon by the commission unless it has first received a recommendation of the senior center committee as to the advisability of any rule or regulation;
- (3) establish standing or ad hoc committees for the conduct of its affairs; and,
- (4) may adopt rules of procedure for the operation of the commission and any committees so formed.

(f) *Duties & Responsibilities of the Senior Center Committee.* The senior center committee shall:

- (1) address all matters concerning the management and operation of the senior center; and,
- (2) make reports and recommendations to the commission on all items it considers. No recommendation of the senior center committee shall be deemed adopted unless and until it is approved by majority vote of the commission.

#### **§17. Homelessness Commission**

(a) *Establishment of Commission on Homelessness.* Under authority of Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Commission on Homelessness" ("commission").

(b) *Membership.* The commission shall consist of nine members appointed by the city manager for a term of three years provided, however,

that, the terms shall staggered such that no more than three terms expire in any one year. The city manager shall designate from the membership of the committee a chair and vice-chair. The members of the committee shall consist of one member from among those nominated by the following agencies and entities:

- (1) Worcester Housing Authority;
- (2) Worcester Public Schools;
- (3) A provider of shelter;
- (4) A health care provider.;
- (5) A workforce development agency;
- (6) A neighborhood crime watch or neighborhood-based organization;
- (7) A business entity operating within the city;  
and,
- (8) Two members not otherwise affiliated and maintaining their primary residence in the city;

(c) The city manager shall establish open, fair and equitable procedures for soliciting nominees from the various entities and agencies listed and shall publish such procedures for an appropriate time prior to soliciting nominees for appointment to the commission.

(d) The city manager shall annually select one of its members as its chair. The chair shall preside over the meetings of the commission. The commission shall represent a broad spectrum of the Worcester community. Any vacancy, however created, other than by expiration of a term, shall be filled by appointment by the city manager for the unexpired portion of the term.

(e) *Duties & Responsibilities of Commission.* The commission shall possess and exercise the power and duty to:

- (1) implement, monitor and update the *Three Year Plan to End Homelessness in Worcester* as originally developed by the city manager's task force on homelessness and presented to the city council on December 3, 2007;
- (2) conduct periodic reviews of the needs of homeless individuals and families;
- (3) make recommendations to the city manager for city budgetary expenditures to end homelessness;
- (4) advocate to meet the needs of the homeless; and,
- (5) make reports to the city manager on the progress of the implementation of the Three Year Plan to End Homelessness in Worcester.

#### **§18. Human Rights Commission**

(a) *Establishment of Human Rights Commission.* Under authority of Article Six of the Home Rule Charter and to promote the human rights policy of the city, there is hereby established under the jurisdiction of the city

manager an executive board of the city to be known as the "Human Rights Commission" ("commission").

(b) *Membership.* The commission shall consist of nine members appointed by the city manager for a term of three years provided, however, that, the terms shall staggered such that no more than three terms expire in any one year. The commission shall annually select one of its members as its chair. The chair shall preside over the meetings of the commission. The commission shall represent a broad spectrum of the Worcester community. Any vacancy, however created, other than by expiration of a term, shall be filled by appointment by the city manager for the unexpired portion of the term.

(c) *Duties & Responsibilities of Commission.* The commission shall possess and exercise the power and duty to:

(1)conduct investigations: to receive and investigate complaints of and to initiate its own complaints and/or investigations of:

(A)(A)the denial of equal access to and discrimination in employment, housing, education, recreation and public accommodation (regardless of the public or private source of such denial or discrimination) where such denial or discrimination against a person is based on race, color, religious creed, national origin, gender, age, ancestry, marital status, parental status, sexual orientation, disability or source of income;

(B)the denial to any person of equal access to and benefit from all public services;

(C)the violation of the enjoyment and exercise by any person of his or her civil rights; and,

(D)the presence in the city of prejudice, intolerance, bigotry, discrimination and the disorder occasioned thereby;

*provided, however, that the executive director, with notice to the commission, shall refer any allegation involving the conduct of the any city employee, including the city manager, city clerk, city auditor or the superintendent of schools, to the Massachusetts Commission Against Discrimination or other appropriate state or federal agency and shall in no event initiate or otherwise conduct any investigation or inquiry regarding these officials or employees.*

(2)hold hearings: to take testimony, administer oaths, and conduct hearings and adjudicatory proceedings in accordance with sections 9, 10 and 11 of G.L. c.30A on any matter within its jurisdiction and, with the assistance and advice of the city solicitor, subpoena witnesses, seek court orders to compel the attendance of witnesses or the production of documents or other evidence;

(3)conduct mediation: to attempt, by mediation, to resolve any complaint over which it has jurisdiction and to recommend to the city manager or other appropriate governmental agency, federal, state or local, such action as it deems appropriate. In the conduct of any such mediation the commission may utilize not only the members and staff of the commission but such organizations as the Worcester County Bar Association, the National Association for Dispute Settlement of the American Arbitration Association and any other similar organizations;

- (4) issue orders and reports: after completion of any investigation or hearings on any complaint or matter not resolved by mediation, the commission may:
- (A) upon a finding of an "unlawful practice", as that term is defined under section 4 of G.L. c.151B, issue cease and desist orders to the party believed to be responsible for such unlawful practice; provided, however, that in no event shall the commission issue any cease and desist orders to the city, its departments and agencies, or its employees insofar as the city employee is or was acting within the scope of his or her employment.
  - (B) make a written report of its recommendations and findings to:
    - (i) the city manager on any matter within the manager's jurisdiction for review and implementation (including the taking of disciplinary or administrative action) as the city manager deems justified; or,
    - (ii) the school committee or superintendent of schools on any matter within their jurisdiction; or
    - (iii) the city council for employees under its jurisdiction; or the Massachusetts Commission Against Discrimination (MCAD) on any matter within its jurisdiction;
    - (iv) other governmental agency having jurisdiction over the matter in question,and, in all cases, urging and using its best efforts to bring about compliance with its recommendation; or
  - (C) assist in securing legal representation for complainants for who, in the opinion of the commission, are indigent or facing undue financial hardship and arrange for legal representation for any complainant who, in the opinion of the commission, has a justifiable complaint which involves a matter outside of the jurisdiction of either the city manager, city council, superintendent of schools or school committee, yet one which is within the jurisdiction of the commission but must be processed by the complainant before the MCAD or some other state or federal governmental agency (or court), provided, however, that the commission shall attempt to secure such representation only for those complainants for whom undue hardship, in the opinion of the commission, would otherwise result;
- (5) review departmental policies: to review the existing policies, rules and regulations of any city department, board, commission or agency and provide its comments, conclusions and recommendations in writing to the city manager and the head or executive officer of any such city department, board, commission or agency, to the extent the foregoing regulations relate to the human rights ordinance of the city;
- (6) review departmental disciplinary actions: to review the results of any internal disciplinary action taken by any department, board, commission or agency of the city, including reports of

the internal affairs division of the police department, and to make comments, conclusions and recommendations jointly to the city manager and the head or executive officer of any such department or agency to the extent such internal disciplinary investigations relate to the human rights ordinance of the city.

Upon the request of the director, the head or executive officer of any department or agency of the city shall forward to the director a copy of any internal disciplinary action report at such time and only to the extent such report becomes a public record under the laws of the commonwealth. The head or executive officer of any city department or agency shall also furnish, subject to the provisions of this ordinance and with the advice and consent of the city solicitor, any other such records and information that the director may request relative to any internal disciplinary action. The director shall furnish the commission with copies of any internal disciplinary action report so received and may disclose to the commission, in an appropriate manner or setting as permitted or required by law, any other records and information received pursuant to this subsection. Any individual employed by the city, including members of the commission, the director or other staff, whether compensated or volunteers, who discloses any records or information of a personal nature or otherwise not subject to mandatory release under the public records law of the commonwealth, to any person, except as provided for herein, may be subjected to employee discipline by the appropriate city official or removed from the commission by the city manager, as the case may be;

- (7) issue publications: to issue such publications and such results of investigations and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination because of race, color, religious creed, national origin, sex, age or ancestry, marital status, parental status, sexual orientation, disability or source of income;
- (8) develop training programs: to develop, in cooperation with the executive offices of human resources and employment and training as well as any federal, state or other city agency or department, programs of instruction for city employees, other municipal employees, or private sector businesses, institutions or employees concerning the elimination of prejudice, intolerance, bigotry and discrimination and the value of mutual self-respect and the achievement of harmonious relationships among all individuals;
- (9) create committees: to create such committees from the members of the commission as, in the commission's judgment, will best aid in effectuating the provisions of this ordinance and to empower such sub-committees to study the problems of prejudice, intolerance, bigotry and discrimination existing in the city due to denial of equal treatment as a result of race, color, religious creed, national origin, gender, age, ancestry, marital status, parental status, sexual orientation, disability or source of income;
- (10) make recommendations and annual reports: to make such recommendations to any public official or public body as, in its judgment, will effectuate the policy of this ordinance and, annually, to make a written report to the city manager of its

activities. The commission's annual report to the city manager shall be made available to the public;

- (11) make rules and regulations: to adopt rules and regulations consistent with this ordinance and the laws of the commonwealth to carry out the policy and provisions of this ordinance and the powers and duties of the commission in connection therewith; and to perform such other duties as may be prescribed under law;
- (12) In no event shall the commission file, or in any way be a party to any criminal actions or complaints in any court of law. In all civil matters the commission shall be represented solely by the city solicitor.

(d) *Contributions*. The commission may, with the approval of the city manager and city council, on behalf of the city, accept contributions, grants and appropriations from other governmental agencies and from civic and charitable foundations, trusts and other organizations, private or public, to effectuate the provisions of this section.

(e) *Relations with City Agencies*. Subject to the provisions of the city charter and the laws of the Commonwealth, the commission shall receive the cooperation and assistance of all city departments and agencies. The commission shall respect the privacy of all individuals. In the event the staff or members of the commission receive any documents or information of a confidential nature, or which would be exempt from disclosure under the public records law or which pertains to a subject eligible for discussion in executive session, neither the staff nor members of the commission shall release or divulge such documents or information to parties outside of the commission, its staff, the law department or any other appropriate city official. Unless otherwise provided, herein, all city departments and agencies shall respond to commission requests for administrative and legal services within ten working days of the date of receipt of any such request.

(f) *Definitions*. For purposes of this section the following definitions shall apply:

"age" refers to the actual or supposed chronological age of an individual eighteen years or older and shall relate to claims of denial of equal treatment due to age. This shall not limit the rights of persons under age eighteen to file a complaint for other than age discrimination (e.g. race discrimination, etc.) if accompanied by a guardian, where necessary.

"disability" refers to any actual or supposed physical or mental handicap of an individual, other than legal incompetency.

"internal disciplinary investigation" refers to any inquiry by the city manager or head of any city department or agency to determine whether the conduct of city employees complies with the ordinances, orders, policies and procedures of the city and, if not, what disciplinary measures are appropriate, insofar as such conduct involves allegations of the impairment or violation of the civil or human rights of any individual.

"marital status" refers to the actual or supposed state of being or having been unmarried, married, separated, divorced or widowed.

"parental status" refers to the actual or supposed condition of having or not having children.

"person" includes, but is not limited to, one or more individuals, partnerships, associations, corporations, agencies, legal representatives, trustees, trustees in bankruptcy and receivers, the city and all political subdivisions, boards and commissions.

"sexual orientation" refers to actual or supposed homosexuality, heterosexuality or bisexuality or orientation or practice including, but not limited to, an orientation that may be presumed on the basis of mannerisms, physical characteristics, manner of dress or deportment.

"source of income" refers to the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents excluding the use of criminal activities as a means of support.

(g) *Construction.* The provisions of this section shall be construed liberally for the accomplishment of the purposes hereof. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by federal and state law.

(h) *Effect of State and Federal Law.* Nothing in this section shall be deemed to exempt or relieve any person from any liability, duty, penalty or punishment provided by any present or future law of the commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this section.

## **§ 19. Board of Library Directors**

(a) *Establishment.* To carry-out the terms of the deed of gift of Dr. John Green to the city of Worcester, dated December 27, 1859, and the last will and testament of Dr. John Green, and subject to the provisions of the General Laws chapter seventy-eight, section seven, there is hereby established under authority of Article Six of the Home Rule Charter within the department a division of the city to be known as the "Free Public Library" ("public library").

(b) *Division Head.* The board of library directors ("board") as so established shall head the division, which shall consist of the board, the head librarian and such other personnel as the city council, with the advice of the city manager, shall, from time to time, authorize in the budget.

(c) *Membership.* The board shall consist of twelve members who shall be appointed by the city council for terms of six years. The city council shall choose in the month of December two directors to fill the vacancies occurring on the first day of January next ensuing, which directors shall hold their office for the term of six years from the first day of January. All vacancies in the board, occasioned by death, resignation, removal from the city or otherwise, shall be filled in like manner, as they arise, for the unexpired term thereof, and no person shall be eligible to fill a vacancy arising from the expiration of his term of office.

(d) *Duties & Responsibilities.* It shall be the duty and responsibility of the board:

- (1) manage the Free Public Library;

- (2) have care and custody of the buildings and grounds of the library and any branches thereof;
- (3) have sole custody of the books;
- (4) promulgate any and all needful and suitable regulations concerning the Free Public Library and the use thereof;
- (5) manage all trust funds given or bequeathed for the benefit of the Free Public Library, including such trust funds formerly under the control of the board of commissioners of Trust Funds; and,
- (6) perform such other duties as may be prescribed by law.

(e) *Organization of the Board.* The directors shall meet as soon as may be after the first day of January in each year and organize into a board by the choice of a president and a secretary from their own number. A majority of the board shall be required for the transaction of business.

(f) *Secretary.* The secretary shall have the care and custody of all books, records, papers and documents belonging to the board and shall record all the doings of the board in a book to be furnished by the city, and he shall deliver the books, records, papers and documents to his or her successor in office.

(g) *Head Librarian & Officers.* Except as otherwise provided by law, the board shall appoint the head librarian and all subordinate officers and may remove such officers at pleasure. The head librarian shall be the executive officer of the board and shall perform the duties and responsibilities described in section 5(b)(1-10) above unless any such duty or responsibility shall be incompatible with any authority exercised under the provisions of the deed of gift or last will and testament of Dr. John Green.

## **§ 20. Status of Women Committee**

(a) *Establishment of the Advisory Committee on the Status of Women.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an agency of the city to be known as the "Advisory Committee on the Status of Women" ("committee").

(b) *Membership.* The committee shall consist of fifteen persons appointed by the city manager for three year terms. The terms shall be staggered such that five terms shall expire on August thirty-first of each year. From time to time, the city manager shall designate the chair of the committee.

(c) *Duties & Responsibilities.* It shall be the function of the committee to:

- (1) formulate, encourage, promote and monitor programs and policies relating to the status of women in the city;
- (2) submit annually to the city manager a report stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the status of women in Worcester; and,
- (3) appoint sub-committees as may be needed to carry out its responsibilities.

**Article 11. Auditing Department**

- § 1. Establishment
  - § 2. Function
  - § 3. Personnel
  - § 4. Head of Department
  - § 5. Duties & Responsibilities
  - § 6. Bond; City Auditor Pro Tempore
  - § 7. Accounts and Contract Ledgers
  - § 8. Supervision of Accounts
  - § 9. Procedure for Payment of Bills
  - § 10. Appropriations Report - Finance Committee
  - § 11. Audits of Certain Departments
  - § 12. Annual Audit
  - § 13. Annual Report of Indebtedness
  - § 14. Reports of the Housing & Redevelopment Authorities
  - § 15. Return to Assessors
  - § 16. Delivery of Assessments and Accounts
  - § 17. Approval of Purchase Orders
  - § 18. Reports of Payments
- 

**§ 1. Establishment**

Under authority of Article Two, § 2-8(b) and Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city council a department of the city to be known as the "Auditing Department" ("department").

**§ 2. Function**

It shall be the function of the department through the city auditor to perform the pre-audit of financial transactions of municipal departments, boards, commissions and committees of the city, including the school department.

**§ 3. Personnel**

The department shall consist of the city auditor and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

**§ 4. Head of Department**

The department shall be headed by the city auditor, who shall be elected by the city council for a term of three years; and who shall reside in the city.

**§ 5. Duties & Responsibilities**

The city auditor shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the general policies and requirements of the city manager and chief financial officer;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) keep and have charge of the accounts of the city;
- (5) audit from time to time the books and accounts of all agencies of the city;
- (6) perform such other duties as may be prescribed by law;
- (7) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (8) keep the city council informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the finances of the city;
- (9) seek the advice of the city council prior to changing any existing policy or initiating any new program or service;
- (10) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city council;
- (11) perform such other tasks and functions as may be requested by the city council;
- (12) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (13) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;

- (14) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city council;
- (15) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city council; and,
- (16) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city council.

#### **§ 6. Bond; City Auditor Pro Tempore**

The city auditor shall give a bond with surety or sureties to be approved by the city council, in the sum of five thousand dollars, for the faithful performance of his or her duties, and the delivery to his or her successor or to the city clerk, of all books papers, documents and property belonging to the office. Whenever the office of the city auditor shall be vacant or whenever he or she may, from any cause, be unable to perform the duties of the office, the city council may elect a city auditor pro tempore, to hold office, unless sooner removed by the city council, until the vacancy shall be filled by the city council, or the disability shall cease, as the case may be; provided, that such city auditor pro tempore, shall have all the powers and be subject to all the liabilities which pertain to the office.

#### **§ 7. Accounts and Contract Ledgers**

(a) The city auditor shall keep his accounts in the form now in use until otherwise ordered by the city council, and by such divisions and such details as may be necessary to show a clear exhibit of the expenses incurred by each of the several departments of the government, in their various operations, stating, among other things, the appropriation for each department, and for each distinct object or expenditure; and whenever the appropriations for any department or for any objects have been exhausted, he shall immediately communicate the fact to the city manager and the city council, and all expenditures therefor shall cease until a further appropriation is duly made. The city auditor, when requested, shall furnish to the chair of the board, or head of the department having work in charge, the amount of the appropriation therefor, and the amount drawn in gross or in detail.

(b) In addition to the system now in operation in the auditing department, the city auditor, under the direction of the city council, shall maintain appropriation and contract ledgers on which daily entries of expenses incurred and encumbrances assumed shall be made and from which daily unexpended balances and unencumbered balances may be obtained.

#### **§ 8. Supervision of Accounts**

The city auditor, under the direction of the city council, shall have general supervision of the accounts kept by the several city departments and shall require the several departments to keep such accounts as may be necessary in such form as he or she shall prescribe.

## **§ 9. Procedure for Payment of Bills**

The city auditor shall receive all bills and accounts from persons having demands against the city, examine them in detail, and have them filed and entered in books in such manner and form as the city council may direct. All doubtful bills and accounts so received shall be presented by the city auditor to the city manager before being entered in such books. Before money is paid out of the city treasury, a requisition therefor, in writing, with detailed accounts attached, specifying the amount to be paid, and the party or parties to whom the payment is due, shall be made by the board or head of the department incurring the expenditure, upon the city auditor. He shall receive all such requisitions, accounts and claims rendered against the city, and carefully examine the same, and shall see that they are correctly cast and approved. In case of any error or informality, he shall make note of the fact, and return the bill or demand with the objections to the officer, board or person presenting the same. When invoices for services rendered or supplies furnished shall have been recorded by the city auditor, the draft or order upon the city treasurer for the payment of the aggregate amount of the bills aforesaid shall be signed by the city manager, and countersigned by the city auditor. The city auditor shall give a certificate for all bills approved as aforesaid to the city treasurer, which certificate shall specify the name of the person or persons authorized to receive the amount due, together with amount duly approved and payable to the person. Such certificate shall be signed by the city auditor, and upon presentation shall be paid by the city treasurer.

## **§ 10. Appropriations Report - Finance Committee**

The auditor shall make an exhibit of the state of the appropriations monthly to the city council; shall render such other services as the city council may direct; and, shall attend all meetings of the city council finance committee.

## **§ 11. Audits of Certain Departments**

The city auditor shall cause to be made a post audit of any or all city departments, if an appropriation is made therefor. This audit shall be made by a certified public accountant, licensed under the General Laws, recommended by the city auditor and approved by the city council.

## **§ 12. Annual Audit**

The auditor shall obtain an annual independent audit of the accounts of the city in accordance with the requirements of the director of accounts of the department of revenue acting pursuant to G.L. c.44, §§ 40 & 42.

## **§ 13. Annual Report of Indebtedness**

All heads of departments and all other officers and boards, including boards of trustees and boards of directors having authority to expend money, shall report annually in writing to the city auditor, not later than the 15th day of July, whether or not they, in their official capacity, or their respective departments or boards, owed any debt at the end of the financial year ending the 30th day June preceding, which was incurred that year and if any, the amount thereof. The city auditor shall, thereupon, furnish each

member of the city council at its first meeting next following the 15th day of August, a written statement of the amount of such indebtedness of each department, officer or board in excess of their respective unexpended appropriations for the same year, including also mention of those departments, officers or boards having no such indebtedness.

#### **§ 14. Report of the Housing and Redevelopment Authorities**

(a) If requested by the city council, on or before the 30th day of December in each year, the city auditor shall submit a report to the city council, as of the last day of the preceding financial year, covering all financial transactions and agreements that the city has had with the Worcester Housing Authority and the Worcester Redevelopment Authority. This report shall be segregated by fiscal year and shall be further segregated as to each project. The report shall include a statement of all capital outlays by the city, and shall be further segregated as to land gifts, expenditures for making streets public, expenditures for constructing sewers and water connections and any other capital expenditures by the city.

(b) The report shall also include a statement of all monies which the Worcester Housing Authority and Worcester Redevelopment Authority paid over to the city from projects, the sources from which that money was derived, the reason for such payment and the application which the city made of such receipts.

(c) The report shall contain a statement of all monies borrowed by the city for the financing of such projects and the amounts matured and outstanding, together with interest paid and accrued on such borrowings.

#### **§ 15. Return to Assessors**

It shall be the duty of the city auditor, upon request of the assessors and before the tax rate is set in each year, to make a return to the assessors of all sums appropriated, granted or lawfully expended by the city since the last preceding annual assessment and not provided for therein, and all sums necessary to satisfy final judgments recovered against the city, specifying the sums for the payment of which the city shall have voted to contract debts under the laws relating to municipal indebtedness; also the amount of temporary loans expressly made payable from the taxes of the current year by vote of the city council, and incurred in anticipation thereof; also all sums required for the payment of interest upon the debt of the city.

#### **§ 16. Delivery of Assessments and Accounts**

It shall be the duty of the several departments and officers of the city to cause to be delivered to the city auditor, who shall take account of and deliver the same to the collector of taxes for collection, all special taxes, assessments and accounts against persons indebted to the city, and no other department or officer of the city, except the collector of taxes, shall receive payment of any such account, except when specially authorized to receive the same.

#### **§ 17. Approval of Purchase Orders**

The several officers of the city and departments to which appropriations are voted by the city council shall present to the city auditor before liability is incurred all orders for services, materials and supplies or any other expenditures or obligation for any of the several departments for his approval as to sufficient funds in the accounts affected to warrant the expenditure of the amount stated in the order. To meet this requirement, a standard system shall be installed in the various departments, subject to the approval of the city auditor, and under the supervision of the city council.

#### **§ 18. Reports of Payments**

All officers authorized to receive money in behalf of the city shall, as often as once in each month, pay over the same to the city treasurer and collector of taxes, reporting at the time of payment the amount thereof to the city auditor, and the city auditor shall audit the accounts of all such officers at the close of each municipal year, and at the expiration of their respective terms of office, or at any other time when ordered by the city council, and for this purpose the auditor shall have access to all books and vouchers in the possession of any officer or committee of the city, and he shall in every case when so ordered, report to the city council the result of his examination.

**Article 12. City Clerk Department**

- § 1. Establishment
  - § 2. Function
  - § 3. Authorized Positions
  - § 4. Head of Department
  - § 5. Organization of the Department
  - § 6. Duties & Responsibilities
  - § 7. Assistant City Clerks
  - § 8. City Council Meetings
  - § 9. Committee Meetings
  - §10. Administration of Elections
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city council a department of the city to be known as the "City Clerk Department" ("department").

**§ 2. Function**

It shall be the function of the department to be the official custodian of the city's records, papers and documents, to serve as the clerk of the city council and its committees, to carry out those duties and responsibilities required by law and to provide administrative and operational support to the board of election commissioners.

**§ 3. Authorized Positions**

The department shall consist of the city clerk and such other positions as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

**§ 4. Head of Department**

The department shall be headed by the city clerk, who shall be appointed by the city council.

**§ 5. Organization of the Office**

(a) *Establishment of Divisions.* The office shall be organized into two divisions for the following purposes:

*City Clerk Division* - to carry out those duties and responsibilities required by law of city and town clerks, to serve as the clerk of the city council and to be the official custodian of the city's records, papers and documents; and;

*Election Commission Division* - to provide administrative and operational support to the board of election commissioners established under article seven of the home rule charter.

## **§ 6. Duties & Responsibilities**

The city clerk shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the general policies and requirements of the city manager and chief financial officer;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) keep to furnish the collector of taxes with an account of any and all assessments made by the city council relating to streets, sidewalks, sewers and otherwise, as soon as may be after such assessments are made;
- (5) perform such other duties as the city council may from time to time require;
- (6) annually report in detail in writing, to the city council all monies received as fees or otherwise during the preceding financial year;
- (7) furnish the justices of the Central District Court, the clerk of the superior court for the county of Worcester, the clerk of the Central District Court, the Free Public Library, the Worcester County Library and the chief of police, with attested copies of all ordinances passed by the city council;
- (8) keep books in which shall be alphabetically arranged the names of all the streets, highways and sidewalks which now are or may hereafter be accepted or laid out, with the date of such laying out or acceptance, and the width thereof, and all alterations therein from time to time made by the city council;
- (9) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (10) keep the city council informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the finances of the city;

- (11) seek the advice of the city council prior to changing any existing policy or initiating any new program or service;
- (12) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city council;
- (13) perform such other tasks and functions as may be prescribed by law or as may be requested by the city council;
- (14) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (15) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (16) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city council;
- (17) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city council; and,
- (18) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city council.

#### **§ 6. Assistant City Clerks**

(a) The city council shall appoint two assistant city clerks on the recommendation of the city clerk.

(b) In addition to having such powers and performing such duties as may from time to time be prescribed for them by the city clerk, it shall be the duty of the assistant city clerks to assist the city clerk in recording, indexing and certifying mortgages of personal property, assignments of wages and other documents required by law to be recorded, and also to attest documents and perform all other duties pertaining to the office of city clerk when thereto requested by him or when the office of city clerk shall be vacant from any cause.

#### **§ 7. City Council Meetings**

The city clerk or an assistant city clerk shall attend all meetings of the city council. The city clerk shall prepare a calendar of the agenda for each meeting and keep the official records of all such meetings.

## **§ 8. Committee Meetings**

The city clerk shall notify the members of the council committees of the meetings thereof and, when requested by the chair of any committee, shall perform such other duties as the committee may require. The city clerk or an assistant city clerk shall attend each meeting of the several committees of the city council and shall make a proper record of all the proceedings and the transaction of the business of each meeting.

## **§ 9. Administration of Elections**

(a) In addition to exercising the duties and responsibilities of city clerk, the city clerk shall also serve as the executive director of the board of election commissioners and in that capacity shall:

- (1) provide administrative and operational support to the board of election commissioners established under article seven of the home rule charter;
- (2) perform such duties and responsibilities as may be required or requested by the board of election commissioners in the performance of their duties under article seven of the home rule charter, or as provided under section sixteen A of chapter fifty-one of the General Laws, or as otherwise prescribed to said board by any federal, general or special law;
- (3) coordinate the services authorized by the city manager of other city departments for the conduct of any election; and,
- (4) administer and keep the records of the board of election commissioners.

(b) The city clerk may assign such personnel within the city clerk department to work in the preparation and administration of elections as he or she deems necessary or advisable to properly perform the duties and responsibilities described in subsection (a) above.

**Article 13. Law Department**

- § 1. Establishment
- § 2. Function
- § 3. Personnel
- § 4. Head of Department
- § 5. Duties & Responsibilities
- § 6. Assistant City Solicitors
- § 7. Claims Committee
- § 8. Legal Assistants

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Law Department" ("department").

**§ 2. Function**

It shall be the function of the department to furnish the legal services and advice to all agencies and officers and employees of the city as may be lawfully requested or required.

**§ 3. Personnel**

The department shall consist of a city solicitor and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

**§ 4. Head of Department**

The department shall be headed by the city solicitor, who shall be the chief legal officer of the city, and who shall be appointed by and shall serve at the pleasure of the city manager. The city solicitor shall be a member of the bar of the commonwealth.

**§ 5. Duties & Responsibilities**

The city solicitor shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;

- (3) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (4) perform provide the legal services, assistance or counsel required by any agency or officer of the city;
- (5) initiate or defend any legal proceeding in which the city is or may be a party or have an interest in and to defend such officers or employees in any proceedings brought against them to which they are or may be entitled to such defense by the city;
- (6) draft the legal instruments of the city;
- (7) review for legal requirements all contracts prior to their execution by the city manager;
- (8) establish such procedures as may be necessary for officers and employees of the city to report and assist in any legal proceedings involving the city or its officers and employees;
- (9) supply city agencies, officers and employees with such forms as may be necessary for the legal conduct of the affairs of the city;
- (10) obtain from the federal government, the General Court, the Attorney General, and from the courts of the Commonwealth, information that may affect the city on proposed or existing laws, interpretations and decisions thereof. To make this information known to the city manager and to the head of any department that may be affected thereby;
- (11) when requested by the city manager, provide legal representation to the Worcester Redevelopment Authority, Worcester Retirement Board, the Upper Blackstone Water Pollution Abatement District and such other entities related to the business of the city of Worcester as the city manager may from time to time further authorize;
- (12) attend all meetings of the city council;
- (13) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (14) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the peace, security and good order of the city;
- (15) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (16) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;

- (17) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (18) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (19) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (20) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (21) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (22) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

#### **§ 6. Assistant City Solicitors**

(a) The city manager may appoint, as shall be provided for in the budget, assistant city solicitors to serve at his pleasure. The assistant city solicitors shall be members of the bar of the commonwealth and shall perform such duties as the city solicitor may direct.

(b) The city manager may also appoint special assistant city solicitors for specific legal matters or cases; said special assistant city solicitors shall be subject to the direction and control of the city solicitor and shall be a member of the highest bar of a state or territory of the United States.

#### **§ 7. Claims Committee**

When requested by any claimant whose claim has been denied by the claims agent, the city solicitor may create a claims committee consisting of two or more attorneys in the department to hear claimants, all of whom shall receive proper notice of the time and place of such hearing investigate. The committee shall have authority to make recommendations to the city solicitor on the ultimate disposition of any claim presented to it.

#### **§ 8. Legal Assistants**

The city manager may also appoint, as shall be provided for in the budget, legal assistants, who shall devote full time to their duties and who shall serve at his pleasure. Legal assistants shall be members of the bar of

the commonwealth and shall perform such duties as the city solicitor may direct, provided, however, that the city manager may appoint temporary legal assistants who are candidates for admission to the bar of the commonwealth.

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APPENDIX A - SPECIAL ACTS APPLICABLE TO THE CITY OF WORCESTER\*

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\*(See Article X, §10-1 and §10-6, of the city charter)

### **ADMINISTRATIVE STRUCTURE**

- 1875, c. 234 - Incorporation of Worcester Protective Department.
- 1916, c. 294 - Lake Quinsigamond Commission; amended by 1936, c. 181.
- 1939, c. 210 - Commissioner of Public Works; amended by Acts 1943, c. 272. See also Acts 1981, c. 103.
- 1939, c. 276 - Board of trustees of Belmont Hospital. Accepted June 20, 1939.
- 1953, c. 181 - Commissioner of Public Health and Health Board. Approved May 12, 1953.
- 1955, c. 365 - Off-street parking facilities.
- 1973, c. 486 - Establishing Downtown Worcester Development Corporation.
- 1976, c. 216 - Authorizing establishment of Civic Center Commission.
- 1977, c. 680 - Correcting 1976, c.216, changing Civic Center loan to \$7,900,000.
- 1985, c. 16 - Authorizing one labor representative on the Civic Center Commission.
- 1990, c. 66 - Increasing membership in the Lake Quinsigamond Commission (amending 1916, c. 294, s. 1; 1973 c. 357, s. 1).

### **CEMETERIES**

- 1854, c. 189 - Relating to Hope Cemetery. (Sec. 1 repealed by s. 35 of the 1893 charter).
- 1935, c. 57 - Part of new Swedish Cemetery lying in Auburn considered as part of city for burial registration purposes and issuance of permits and disinterment.
- 1951, c. 226 - Authority of city to take Tatman Cemetery for public use.

### **CITY HOSPITAL**

- 1871, c. 339 - Authority to establish City Hospital.
- 1905, c. 120 - Morgue in connection with City Hospital.
- 1953, c. 266 - Consolidation of Worcester City Hospital and Belmont Hospital.

- 1974, c. 510 - Authorizing establishment of revolving fund at Worcester City Hospital.
- 1984, c. 386 - Establishing a special account for Worcester City Hospital.
- 1992, c. 138 - Worcester Health and Hospitals Authority - special revenue fund, financial assistance.

**CIVIL SERVICE AND MUNICIPAL EMPLOYMENT**

- 1918, c. 84 - Minimum wage for laborers.
- 1930, c. 91 - Saturday half-holidays for laborers, workmen and mechanics. Accepted November 4, 1930. (Repealed by acts 1945, c. 364.)
- 1935, c. 170 - Subjecting commissioner of soldiers' relief and state and military aid and supervisor of soldiers' and sailors' graves to civil service laws. Accepted November 5, 1935.
- 1949, c. 319 - Placing the office of agent of veterans' benefits and director of veterans' services under civil service law.
- 1950, c. 352 - Placing Mary C. Hayes, substitute matron in the Police Department, under civil service.
- 1951, c. 221 - Tenure of office of assistant city clerk.
- 1954, c. 96 - Tenure of second assistant to city clerk. Approved March 4, 1954.
- 1962, c. 131 - Life tenure for Theodore A. Austin.
- 1970, c. 108 - Tenure for Helen Reidy.
- 1977, c. 558 - Exemption of school department business assistants from civil service.
- 1981, c. 103 - Exempting certain positions in the Department of Public Works from civil service.
- 1983, c. 45 - Exempting assistant commissioner of code inspection from civil service.
- 1983, c. 383 - Authorizing certain exemptions from a five day and forty hour work week.
- 1989, c. 149 - Exempting the position of principal civil engineer in the Department of Traffic Engineering from the provisions of civil service.
- 1989, c. 257 - Solicitation of political contributions by city employees.

## DRAINS AND SEWERS

- 1867, c. 106 - Concerning construction, maintenance and repair of sewers and drains in the city. Accepted April 16, 1867; June 27, 1939; amended by Acts 1939, c. 282.
- 1871, c. 354 - In addition to Acts 1867, 106 special assessments and damages; amended by Acts 1939, c. 282.
- 1874, c. 194 - Establishing lien on estates for sewer and drain assessments.
- 1886, c. 331 - To establish system of sewage disposal.
- 1893, c. 312 - Repair of private drains in streets or ways.
- 1897, c. 484 - Authority to borrow money for construction of sewers, etc., under Acts 1867, c. 106 and Acts 1886, c. 331.
- 1900, c. 460 - Authority to improve channel of Middle River. (See also, Acts 1939, c. 282.)
- 1901, c. 72 - Authority to improve channel of Beaver Brook. (See also, Acts 1939, c. 282.)
- 1916, c. 363 - Disposition of sewage from Worcester State Hospital. Accepted June 26, 1916; April 28, 1922; May 8, 1923; amended by Special Acts 1919, c. 165; Acts 1923, c. 180; Acts 1938, c. 310.
- 1919, c. 171 - Providing for removal of offensive sewage from Blackstone River.
- 1935, c. 435 - Regulating entrance or discharge of sewage, etc., into Lake Quinsigamond and Flints and Hovey Ponds.
- 1939, c. 282 - Construction of sewers and drains, and assessments and rate of interest on unpaid assessments therefor. Accepted June 26, 1939.
- 1946, c. 407 - Authorizing the city to borrow money for improving, rebuilding, repairing and providing necessary equipment for its sewage plant and for its sewage system; amended by Acts 1947, c. 537; Acts 1951, c. 361; Acts 1953, c. 254.
- 1947, c. 126 - Construction of sewer system for town of Auburn.
- 1949, c. 631 - Authorizing the city to lay drains and common sewers in a portion of town of Auburn.
- 1951, c. 361 - Providing that certain sewerage bonds may be issued by the city prior to January 1, 1953.

- 1968, c. 752 - establishment of Upper Blackstone Water Pollution Abatement District.
- 1977, c. 99 - Act clarifying the authority of the Upper Blackstone Water Pollution abatement District.

**ELECTIONS AND VOTING**

- 1922, c. 276 - providing for municipal primaries. Accepted December 12, 1922.
- 1948, c. 24 - Concerning voting precincts in the city.
- 1951, c. 454 - Authority to pay an additional four dollars to all election precinct workers employed at last biennial state election.
- 1983, c. 35 - Relative to the number of signatures required on a petition for city council or school committee elections.
- 1992, c. 172 - Directing the state secretary to place a certain non-binding question on the Biennial State election ballot in the city in the current year.

**FIRE DEPARTMENT**

- 1921, c. 37 - Authorizing ordinances providing for control or prevention of smoke and cinders.
- 1935, c. 144 - Placing chief, deputy and district chief of Fire Department under civil service laws.
- 1955, c. 752 - Overtime to certain police and fireman working in hurricane of 1954.
- 1958, c. 551 - Time off for Fire Department members who work legal holidays.
- 1964, c. 556 - Retroactive increase in accident disability retirement allowances to retired members of police and fire departments.

**LAND USE AND EMINENT DOMAIN**

- 1873, c. 282 - Authority to purchase land for slaughterhouses.
- 1874, c. 229 - authority to take land for use of slaughterhouses.
- 1907, c. 90 - Boundary line between Worcester and Grafton.

- 1908, c. 274 - Authorizing removal of buildings or materials from land taken by city for municipal purposes.
- 1908, c. 276 - Relative to taking of land for municipal purposes.
- 1912, c. 200 - Authority city to take land, etc., for municipal market.
- 1925, c. 144 - Authorizing grant to trustees of Holy Cross of certain rights in certain land and waters. Accepted October 20, 1925.
- 1952, c. 226 - Authorizing sale of certain land on Holden Street. Approved April 22, 1952.
- 1983, c. 317 - Providing for the transfer of certain parcels of land to the Worcester Business Development Corp. and the Department of Food and Agriculture.

#### **LIBRARY**

- 1860, c. 14 - Concerning Free Public Library. Accepted March 26, 1860.
- 1946, c. 350 - Authorizing the city to borrow money for the purpose of acquiring a site and constructing and equipping a public library building.

#### **PARKS AND PLAYGROUNDS**

- 1873, c. 196 - Authority to lay out Newton Hill Park and Elm Park.
- 1884, c. 263 - Taking of certain land for public parks.
- 1885, c. 139 - Authority to take old common for purpose of public parks or City Hall.
- 1885, c. 163 - Board of Park Commissioners. (Abolished by Sp. Acts 1917, c. 204.)
- 1887, c. 249 - Authority to use certain land belonging to commonwealth for public park.
- 1888, c. 144 - Authority to borrow money for public parks.
- 1901, c. 64 - Construction of convenience station upon the common.
- 1903, c. 142 - Authority to appropriate money for care and improvement of Boynton Park. (sec. 2 repealed by Acts 1941, c. 29.)
- 1905, c. 364 - Relative to building in public parks.

- 1907, c. 525 - Authorizing trustees of Worcester Insane Hospital to grant city right to use certain land for park purposes.
- 1910, c. 251 - Authorizing park commissioners to regulate quarrying of stone in Green Hill park.
- 1913, c. 172 - Authority to provide public playgrounds.
- 1914, c. 574 - Maintenance of fire alarm telegraph station in Newton Hill Park. Accepted June 19, 1914.
- 1917, c. 204 - Parks and recreational commission.
- 1919, c. 204 - Authorizing sale of part of Home Farm Land to Shrewsbury for schoolhouse purposes.
- 1954, c. 125 - Authority to use portion of Institute Park for Fire Station.
- 1920, c. 16 - Authorizing the sale of part of Crompton Park and Kendrick Field.
- 1922, c. 471 - Authority to receive and hold land, etc., to be used as athletic field.
- 1946, c. 335 - Sale of land by state to city for recreational purposes.
- 1948, c. 40 - Authorizing city to use a portion of Kendrick Field, a public playground, for the purpose of widening Brook Street.
- 1949, c. 250 - Authorizing the city to take land from a public playground, Logan Field, to widen Fowler Street.
- 1950, c. 267 - Authorizing the city to use a portion of Green Hill Park for water purposes.
- 1967, c. 445 - Use of portion of Institute Park for Police Headquarters building.
- 1955, c. 761 - Authority to grant easement in portion of Green Hill Park to state.
- 1962, c. 381 - Reutilization of three parcels of land under parks and recreation commission.
- 1968, c. 43 - Authority to borrow money for rehabilitation of municipal golf course.
- 1981, c. 568 - Establishing Blackstone River and Canal Commission.
- 1989, c. 231 - Authorizing the city to construct a comfort station at Elm Park.
- 1992, c. 263 - Authorizing the city to lease a certain building in Newton Hill Park.

## **POLICE DEPARTMENT**

- 1911, c. 137 - Providing for pensioning members of police who are Civil War veterans.
- 1914, c. 312 - Appointment of police patrol drivers, police ambulance drivers and police ambulance attendants as regular members of police department.
- 1916, c. 228 - Authorizing appointment of Thomas J. Monroe as police ambulance attendant.
- 1950, c. 352 - Placing position of substitute matron in police department under civil service laws and rules.
- 1955, c. 752 - Overtime to certain police and firemen working hurricane of 1954.
- 1964, c. 556 - Retroactive increase in accidental disability retirement allowances to retired members of police and fire departments.
- 1969, c. 465 - Liability of town using Worcester lock up facilities.
- 1981, c. 137 - Concerning authority of Worcester Police Department on certain land outside city of Worcester.
- 1989, c. 213 - Authorizing cities and towns to penalize those who abandon motor vehicles.

## **PUBLIC FINANCES, TAXATION AND MUNICIPAL INDEBTEDNESS**

- 1892, c. 203 - Exempting Odd Fellows Home property from taxation.
- 1894, c. 293 - Authorizing city to incur indebtedness for purpose of erecting City Hall.
- 1902, c. 398 - Authorizing acceptance of benefits of will of Jerome Wheelock.
- 1916, c. 211 - Restricting borrowing to amount equal to sum appropriated to sinking funds (Coe Act). Amended by Acts 1920, c. 138; 1935, c. 108; Acts 1952, c. 130.
- 1930, c. 55 - Authority to borrow money for purpose of constructing municipal memorial auditorium.
- 1933, c. 354 - Provisions of c. 211, special acts 1916, amended, inapplicable to loans authorized under c. 307, 1933.
- 1933, c. 366 - To allow borrowing in excess of debt limit to avail of federal funds for P.W.A. work.
- 1938, c. 359 - Authorizing borrowing for purpose of funding revenue deficit.

- 1941, c. 24 - Authority to borrow money to construction municipal airport; amended by Acts of 1946 c. 232; Acts of 1946 c. 433; Acts of 1947 c. 250, Acts of 1952 c. 365.
- 1947, c. 214 - Authority the city to invest certain trust funds in mortgages on real estate.
- 1947, c. 518 - Authority the city to reimburse the pastor of Saint Ann's Church for expenses incurred in the operation of a child care center.
- 1950, c. 279 - To pay sum of money to Mary E. McHugh.
- 1950, c. 775 - Authorizing the appropriation and payment of money to Franklyn J. Scola.
- 1951, c. 347 - Extending the time for filing application for abatement of, and exemption from, taxes and appeals to the Appellate Tax Board in respect to certain properties.
- 1952, c. 225 - Authorizing to city to appropriate and pay a sum to B.N.T. Sand and Gravel Co. Approved June 3, 1952.
- 1952, c. 164 - Worcester Incinerator Loan Act - authorizing city to borrow money for sanitation purposes.
- 1963, c. 437 - Authorizing a revolving fund at Worcester Vocational Schools.
- 1981, c. 754 - Relative to the amount required to be raised as an overlay.
- 1985, c. 180 - Authorizing abatement of betterment assessment.
- 1986, c. 73 - To provide further relief from the impact of revaluation for the citizens of Worcester.
- 1991, c. 138 - Authorizing the city to establish certain fees and charges.

#### RAILROADS

- 1892, c. 364 - Authorizing the Worcester and Shrewsbury Railroad Company to extend its tracks across Lake Quinsigamond.
- 1911, c. 528 - Maintenance of union passenger station at South Worcester Junction.
- 1912, c. 725 - Authorizing (s.2) the Southern New England Railroad Corporation to enter Worcester .
- 1926, c. 371 - Enabling the New York Nw Haven and Hartford Railroad Company to acquire the Worcester Consolidated Street Railway Company and other companies. Accepted December 21, 1926.

1947, c. 430 - Authorizing the Worcester Street Railway Company to pay a sum of money to the city in lieu of removing the abandoned tracks.

#### RETIREMENT AND PENSIONS

- 1916, c. 184 - Authority to pension Fordis O. Bushnell.
- 1918, c. 48 - Authority to pension Daniel T. Courtney. Accepted March 29, 1918.
- 1921, c. 469 - Authority to pension Hannah Marley. Accepted June 27, 1921.
- 1921, c. 470 - Authority to pension Walter F. Gleason. Accepted June 27, 1921.
- 1923, c. 410 - Worcester Retirement Act. Accepted by mayor and city council November 13, 1923, by voters December 11, 1923; amended by Acts 1928, c. 343; Acts 1929, c. 344, Acts 1932, c. 200; Acts 1939, c. 281; Acts 1941, c. 554; Acts 1945, c. 228; Acts 1945, c. 429.
- 1925, c. 202 - Relative to pension of Albert H. Beland. Accepted June 3, 1925.
- 1937, c. 254 - Authorizing temporary reinstatement of Timothy H. Murphy as employee for sole purpose of being retired. Accepted May 17, 1937.
- 1947, c. 263 - Requiring the retirement board of the city to repay to certain employees the contributions made by them to the contributory retirement system, and establishing the pension or retirement allowances for such employees.
- 1948, c. 291 - Reimbursement of municipal employees of their contribution to the retirement system.
- 1948, c. 588 - Increase of pensions payable to certain former public employees and to beneficiaries of certain retired public employees.
- 1949, c. 389 - Adjustment of retirement allowance of Elizabeth M. Mahoney.
- 1950, c. 541 - Authorizing reinstatement of John M. Donahue for the purpose of retirement.
- 1950, c. 820 - Increasing certain pensions, retirement allowances, annuities and other benefits payable by the Commonwealth to certain former employees and persons claiming under them.
- 1951, c. 311 - Authorizing the reinstatement of Jeremiah W. Moynihan and John F. McGourty for the purpose of retirement.

- 1951, c. 372 - Authority to pay an annuity to the widow of Benjamin Herman.
- 1951, c. 463 - Authority to pay an annuity to widow of William B. Deedy.
- 1951, c. 507 - Reinstatement of James J. Burgess for the purpose of retirement.
- 1951, c. 631 - Rights of certain employees under the contributory retirement system.
- 1952, c. 298 - Authorizing reinstatement of Thomas F. Manning for the purpose of retirement. Approved June 3, 1952.
- 1953, c. 520 - Changes in Retirement Act. Approved July 14, 1953.
- 1954, c. 242 - Authority to reinstate James F. Duffy for the purpose of retirement.
- 1955, c. 691 - Retirement rights of George E. Muhr.
- 1957, c. 396 - Retirement rights of William P. Wrightson.
- 1957, c. 759 - Annuity to widow of Michael F. O'Reilly.
- 1957, c. 760 - Annuity to widow of Daniel J. Sullivan.
- 1962, c. 612 - Employees who retired in 1960 to participate in salary increases.
- 1984, c. 473 - To improve retirement regulations for teachers.
- 1990, c. 254 - City employees to who past age 70 to continue to pay into retirement system to receive credit for retirement purposes after 70. Retroactive to January 1, 1988.
- 1991, c. 505 - Establishing a funding schedule for the city retirement system.
- 1992, c. 186 - Retirement rights of Raymond McGrath, a police officer of the city.

#### SCHOOLS

- 1908, c. 258 - Relative to janitors of public schoolhouses.
- 1920, c. 268 - Relative to retirement as school teachers of certain clerical assistants.
- 1922, c. 433 - Authority to borrow for junior high school building.
- 1930, c. 286 - Authorizing city to purchase land to be conveyed to commonwealth as site for new normal school building. Accepted May 14, 1930.

- 1935, c. 108 - Authorizing loans for purposes of constructing junior high school or combined senior and junior high school buildings. Accepted November 5, 1935.
- 1948, c. 125 - Increasing the borrowing capacity for the city for the purpose of constructing additions to school buildings; amended by Acts of 1949, c. 633.
- 1950, c. 14 - Authorizing the city to use a portion of Rockwood Field for school purposes.
- 1950, c. 253 - Authority to borrow for construction of a junior high school or a senior-junior high school.
- 1950, c. 643 - Authorizing the city to borrow money for school purposes.
- 1951, c. 7 - Authority to borrow money for school purposes on Richmond Avenue near Flagg Street.
- 1951, c. 473 - Authority to borrow money for school purposes (Curtis Farm on Burncoat Street).
- 1952, c. 71 - Authority to place certain position in labor service in school department under Civil Service laws.
- 1952, c. 273 - Worcester Industrial School Building Loan Act.
- 1952, c. 290 - Authority to borrow money for construction of elementary school.
- 1952, c. 568 - Authority to borrow money for school purposes.
- 1977, c. 558 - Exemption of school department business assistants from civil service.
- 1986, c. 194 - Authorizing a city or town to establish a scholarship fund.
- 1986, c. 188 - (Public School Improvement Act) grant approved by board of trustees of Vocational School Department.
- 1991, c. 336 - Deferring compensation and funding of certain teachers' salaries for cities, towns and regional school districts.

**STREETS, SIDEWALKS AND BRIDGES**

- 1869, c. 390 - Establishment of sidewalks and assessment of cost. (Septemer 20, 1869)
- 1888, c. 442 - Authority to lay out street over land of Worcester Lunatic Hospital; amending c. 435.
- 1899, c. 174 - Authority to change grade of streets over land of Worcester Insane Hospital.

- 1903, c. 422 - Authority to alter, relocate, widen and change grade of streets over land of Worcester Insane Hospital and Boston and Albany Railroad Company; amended by 1906, c. 163.
- 1908, c. 119 - Relative to building of structures of certain streets.
- 1910, c. 145 - Names of private ways.
- 1911, c. 11 - Bridge of Fremont Street (Worcester Bleach and Dye Works Company).
- 1912, c. 186 - Authority to take land on southerly side of proposed widening of Belmont Street.
- 1913, c. 163 - Erection of waiting stations in parts of public streets
- 1913, c. 201 - Authority to take land in connection with extension of Madison Street.
- 1913, c. 326 - Authority to take lands near Washington Square for street purposes.
- 1913, c. 787 - Bridge over Lake Quinsigamond between Worcester and Shrewsbury; amended by Acts of 1915 c. 302; Acts of 1918 c. 292; Acts of 1919 c. 211.
- 1916, c. 288 - Relative to signs, awnings and other projections in public ways.
- 1917, c. 320 - Authority to take certain land in city and in Shrewsbury for highway and bridge purposes.
- 1918, c. 14 - Bridge over Tremont Street (heirs of Ranson A. Taylor).
- 1918, c. 15 - Bridge of Wyman and Tainter Streets (The Crompton and Knowles Loom Works.)
- 1920, c. 121 - Bridges over Bradley and Gold Streets (The Wyman Gordon Company).
- 1920, c. 444 - Relative to borrowing money for construction of bridge over Lake Quinsigamond.
- 1921, c. 330 - Bridge of Market Street (George L. Brownell).
- 1927, c. 190 - Authority to borrow money for certain street construction.
- 1928, c. 48 - Authority to use part of University Park for street purposes; accepted October 28, 1929.
- 1930, c. 288 - Authority to acquire certain land for street purposes; accepted June 11, 1930.
- 1930, c. 362 - Authorizing grant of easement in certain land on Main Street to United States of America.
- 1931, c. 69 - Loans for street and sidewalk construction.

- 1933, c. 32 - Authorizing grant of easements in Myrtle and Southbridge Streets to United States of America.
- 1934, c. 27 - Authority to use part of Elm Park for street purposes.
- 1935, c. 379 - Authorizing county of Worcester to contribute toward reconstruction of certain streets in city. Accepted by county commissioners September 10, 1935.
- 1938, c. 53 - Bridge over West Street (Worcester Polytechnic Institute); accepted March 29, 1938.
- 1938, c. 253 - Removal of snow and ice from private ways open to public use; accepted November 7, 1939.
- 1947, c. 155 - Authorizing the city to borrow money for converting private ways into public ways.
- 1948, c. 40 - Authorizing the city to use a portion of Kendrick Field, a public playground, for the purpose of widening Brook Street.
- 1948, c. 99 - Wyman Gordon Company allowed to maintain two bridges over Gold Street.
- 1948, c. 184 - Construction and maintenance of a bridge by Worcester County Electric Co. over Webster Street.
- 1949, c. 250 - Authorizing the city to take land from a public playground for highway purposes.
- 1950, c. 238 - Relative to the placing of signs bearing the name of private ways open to public use.
- 1951, c. 385 - Authorizing the city to borrow money for converting private ways into public ways.
- 1952, c. 62 - Authority to appropriate money for sanding of private ways open to public use; approved April 15, 1952.
- 1952, c. 225 - Authority to appropriate and pay sum to B.N.T. Sand and Gravel Co.
- 1953, c. 584 - Authority to use portion of common for public way; approved July 28, 1953.
- 1957, c. 259 - Use of Morgan Park to widen Grove Street.
- 1957, c. 260 - Use of Institute Park to widen Grove Street.
- 1957, c. 285 - Use of Rural Cemetery to widen Grove Street.
- 1969, c. 264 - Use of park land for street purposes.
- 1976, c. 81 - Authorizing street sweeping of certain private ways.
- 1981, c. 642 - Designating a certain street as Norton Drive.

- 1982, c. 496 - Designating a certain bridge as the Thomas A. Jolly Bridge.
- 1984, c. 302 - Authorizing certain repairs on private ways.
- 1989, c. 28 - Designating a certain bridge formerly known as the Summit Bridge, now known as the Walter Antul and Henry Antul Memorial Bridge; amending Acts of 1986, c. 41.
- 1990, c. 174 - Parking facilities owned by the city; authorization to lease spaces located in off-street facilities.
- 1990, c. 426 - Authorizing the conveyance of easements in the city.

**VETERANS AND MILITARY AFFAIRS**

- 1930, c. 282 - Authorizing city to take over and manage certain property of George H. Ward Post No. 10, Grand Army of the Republic, Department of Massachusetts; accepted May 14, 1930.
- 1931, c. 368 - Relative to sale of certain land held by commonwealth in city for military purposes; amending Acts of 1939, c. 328.
- 1947, c. 370 - Authorizing the city to make certain expenditures to commemorate the dedication and commissioning of the U.S.S. "Worcester."
- 1961, c. 195 - Fee for Veterans' organizations selling alcoholic beverages.

**WATER**

- 1854, c. 338 - For supplying city with water (Henshaw Pond or Tatnuck Brook); accepted May 27, 1854.
- 1856, c. 189 - For supplying city with water (Kettle Brook); accepted December 12, 1871.
- 1861, c. 118 - For supplying city with water (East or Lynde Brook or other water in Leicester or Paxton).
- 1863, c. 72 - For supplying city with water (from easterly slope of Millstone Hill).
- 1864, c. 104 - For supplying city with water (Eat or Lynde Brook, Henshaw Pond and Kettle Brook).
- 1867, c. 269 - For supplying city with water.
- 1871, c. 361 - For supplying city with water.
- 1874, c. 268 - Fishing in reservoirs and water supply.
- 1876, c. 66 - For supplying city with water (Parson's Brook).

- 1876, c. 232 - For supplying city water (Kettle Brook).
- 1881, c. 268 - For supplying city water (Tatnuck Brook); amended by Acts of 1884, c. 145; accepted July 11, 1881.
- 1889, c. 61 - For supplying city with water (Tatnuck Brook).
- 1891, c. 151 - Renewing funded loan falling due April 1, 1892; (evidences of indebtedness payable on or before June 1, 1905).
- 1892, c. 81 - Additional water loan.
- 1895, c. 384 - Increase in water supply and additional water loan; amended by Acts of 1896, c. 202.
- 1895, c. 455 - Additional water loan.
- 1899, c. 380 - Additional water loan.
- 1900, c. 365 - Increase in water supply
- 1902, c. 351 - Increase in water supply (Kendall Brook and Asnebumskit Brook).
- 1911, c. 750 - Borrowing money to procure emergency supply of water (evidences of indebtedness payable not later than January 1, 1917).
- 1913, c. 315 - Water Loan Act of 1913 (notes or bonds to be paid within 20 years).
- 1914, c. 47 - Water Loan Act of 1914 (notes or bonds to be paid within 20 years).
- 1915, c. 85 - Water Loan Act of 1915.
- 1918, c. 176 - Relative to procuring additional water supply; accepted July 1, 1918.
- 1919, c. 162 - Water Loan Act of 1919 (notes or bonds to be paid within 20 years).
- 1920, c. 247 - Additional water supply for Grafton Street Hospital.
- 1920, c. 516 - Supplying water to Auburn.
- 1921, c. 62 - Furnishing water to Saint Vincent Hospital in Millbury.
- 1921, c. 347 - Water Loan Act of 1921 (notes or bonds to be paid within 20 years).
- 1922, c. 255 - Water Loan Act of 1922 (notes or bonds to be paid within 20 years).
- 1923, c. 246 - Furnishing water to town of Shrewsbury.
- 1923, c. 274 - Water Loan Act of 1923 (notes or bonds to be paid within 20 years).

- 1924, c. 326 - Furnishing water to Auburn; secs. 11, 12.
- 1926, c. 310 - Furnishing water to town of Shrewsbury.
- 1926, c. 375 - Additional provisions for water supply (Ware River, South Wachusett Brook and Quinapoxit River); amended by Acts of 1926 c. 397; Acts of 1931 c. 340; Acts of 1949, c. 699.
- 1927, c. 122 - Water Loan Act of 1927.
- 1931, c. 369 - Authority to contract with Paxton for purchase and sale of water.
- 1933, c. 352 - Supply water to West Boylston (sec. 2).
- 1935, c. 385 - Supplying water to Woodland Water District in Auburn (sec. 2).
- 1935, c. 386 - Supplying water to Elm Hill Water District in Auburn (sec. 2).
- 1936, c. 248 - Blackstone River Valley District.
- 1936, c. 336 - Authority (sec.2) of Maple Hillside Water District of Millbury to contract with Worcester for water.
- 1947, c. 585 - Town of Auburn water district.
- 1950, c. 7 - Authority of West Boylston to lay water mains and to furnish and sell water to certain inhabitants of the city.
- 1950, c. 267 - Authorizing the city to use a portion of Green Hill park for water purposes.
- 1977, c. 867 - Authorizing appropriation for payment of over-charges re; water service.
- 1980, c. 476 - An act concerning a certain license for placing of fill and maintaining structures in Lake Quinsigamond.

#### MISCELLANEOUS

- 1902, c. 372 - Relative to wires and electrical appliances in the city.
- 1906, c. 462 - Inspector of milk, butter, cheese, lard and vinegar; amended by Acts of 1927, c. 12.
- 1914, c. 199 - Licensing of coffee houses.
- 1916, c. 224 - Garbage disposal.
- 1929, c. 84 - Authorizing United Bancroft Hotel Company to build and maintain building.
- 1952, c. 243 - Removal of ashes and refuse in city.

1991, c. 436 - Regulating the disposition of dog license fees for Worcester County.

APPENDIX B - STATUTES ACCEPTED BY THE CITY OF WORCESTER

Part 1 - General Laws Accepted

General Law

Subject Matter and Date of Acceptance

**Chapter 4**

- c. 4, s. 7 Making first day of January a legal holiday (November 7, 1916).
- c. 17 Of the Action of 1997 - Approves the election of the Worcester Retirement Board to establish a cost of living Adjustment calculation pursuant to Section 103 of Chapter 32 of the General Laws (June 30, 1998)

**Chapter 22**

- c. 22, s. 12 State boxing commission (July 6, 1920).
- c. 22 Acts of 1995 relative to the creation of an economic development corporation which shall be a body corporate to be known as the Central Mass. Economic Development Authority(Jan. 9, 1996)

**Chapter 29**

- c. 29, s. 31, Advances of vacation pay to officers and employees of certain counties, cities and towns (April 5, 1952).
- c. 29, s. 64(d) All city and school department employees not enrolled in the Worcester Retirement System or the Massachusetts Teachers Retirement System to contribute to a deferred compensation plan (October 25, 1994).

**Chapter 31**

- c. 31, s. 49 Extending provisions of Civil Service Act to chiefs of police(November 7, 1911).
- c. 31, s. 49A Placing within classified civil service office of city clerk (November 7, 1939).
- Placing within classified civil service office of city treasurer and collector of taxes (November 5, 1940)
- c. 31, ss. 61A Physical Fitness for Police & Fire Personnel & 61B Wellness Program (see c.32, §22D)

**Chapter 32**

- c. 32, paragraph (h) enacted by Section 3 of Chapter 456 of the Acts of 1998 - COLA State - Non-contributory retirees (Feb. 23, 1999)

c. 32, Sec 20A Civil Action against board member; expenses and damages; indemnification (April 29, 1997)

c. 32, ss. 20-25, 32-34, 36-38, 91 Authorizing counties to establish retirement systems for their employees (November 3, 1914).

c. 32, s. 20(4) (d1/2) Increase in the amount of compensation from \$1,500 to \$3,000 which the Worcester Contributory Retirement Board may pay for auditing services to the city auditor or other officer having similar powers and duties (January 22, 1991).

c. 32, ss. 26-31H, inclusive Relative to retirement system (May 19, 1944).

c. 32, s. 22D 4 1/2 increase funding option (December 28, 1990).

c. 32, ss. 45C, 77B Increase of non-contributory pension of certain school janitors and laborers (December 19, 1960).

c. 32, ss. 51-55 Retirement of certain veterans in service of cities and towns (June 30, 1913).

c. 32, ss. 57-60 Retirement of certain veterans in public service (June 8, 1925).

c. 32, s. 58C Increase of retirement allowance of police and firemen retiring under Veterans' Retirement Act (August 28, 1967).

c. 32, s. 77 Pensioning laborers (November 5, 1912, November 7, 1916).

Pensioning of foremen, inspectors, mechanics, assistant draw tenders and storekeepers (June 28, 1920).

Pensions for laborers, clause (b) (January 9, 1939).

Defining the word "laborers", clause (c) (May 19, 1944).

c. 32, s. 77A Pensions for widows of laborers under the non-contributory pension system (December 5, 1960).

c. 32, s. 80 Pensioning permanent and call members of fire department (December 9, 1913).

Authorizing cities to pension firemen (Acts of 1898, c. 267) (December 11, 1900).

Authorizing cities to pension firemen (Acts of 1900, c. 246) (December 11, 1900).

Pensioning firemen (R.L. 1902, c. 32, sec. 82) (December 11, 1906).

Retirement of firemen (January 18, 1937).

- c. 32, ss. 81A, 81B, 83A      Compulsory retirement of certain members of fire and police departments at sixty-five (May 31, 1947)
- c. 32, s. 83      Pensions (March 18, 1912).
- c. 32, c. 89      Payment of annuities to families of policemen dying from injuries received while in exercise of duty (March 28, 1927).
- c. 32, s. 89      Payment of compensation to dependents of policemen and firemen killed in performance of duty (October 28, 1929).
- c. 32, s. 90A      Increasing allowances of former employees retired on account of accident disability (April 14, 1947).
- c. 32, s. 90A, C, 40%      level with \$4,000 cap; further requested to D and E fund this formula for implementation for FY 1995 (March 22, 1994)
- c. 32, Sec 90A, C, D & E      At 50% level with \$4,000 cap for Public Safety employees (Order adopted April 1, 1997)
- c. 32, s. 90 1/2G      Any member of retirement system continuing in service after age 70 (May 31, 1988)
- c. 32, s. 95A      Annuities to the surviving spouse, or children of certain officials or employees who have been retired or pensioned under any non-contributory retirement law (March 13, 1961).
- c. 32, s. 99      Advance payments to certain employees eligible for retirement (June 29, 1959).

#### **Chapter 32A**

- c. 32A, ss. 2(f), 10B, 11B      Extension of contributory group hospital, surgical, medical insurance to elderly retired person (October 1, 1962).

#### **Chapter 32B**

- c. 32B, s. 9D 1/2      Allowing city to contribute more than 50% of the health insurance costs of surviving spouses of insured or retired employees (October 16, 1990).
- c. 32B, ss. 3-5, 9, 11A      Increased amounts of group life insurance for persons in the service of counties, cities, towns and districts on an optional basis without premium contribution by the political sub-divisions of the commonwealth (July 24, 1961).
- c. 32B, s. 7A, 9E      Increasing the city's share of the contribution to employees' health insurance (November 20, 1973).

- c. 32B, ss. 8A, 10      Use of local governmental employees' group insurance dividends, or refunds to reduce the employees' share of premium costs (October 25, 1965).
- c. 32B, c. 9A      Certain political subdivisions to contribute one half of the cost of insurance premiums of retired employees (March 14, 1960).
- c. 32B, s. 9D      Political subdivisions to contribute one half cost of health insurance premiums of surviving spouse of insured active or retired employee (August 28, 1967).
- c. 32B, s. 16      Enabling city to make Fallon Community Health Plan available to city employees (February 27, 1979).
- c. 32B, c. 40,  
s. 5      Contributory group, life accident, hospitalization, medical and surgical insurance (November 21, 1958).

**Chapter 33**

- c. 33, ss. 40,  
43, 45      Act to provide armories for the Massachusetts volunteer militia (November 10, 1988).
- c. 33, s. 54      Leave of absence of city employees during service in militia and during tour of duty (May 14, 1934).
- No loss of pay or vacation to employees in militia; G.L. c. 33 was amended in 1954. The provisions previously found in sec. 54, as accepted are now in sec. 59 (August 11, 1948).

**Chapter 34**

- c. 34, s. 65      Advances of vacation pay to officers and employees of certain counties, cities and towns (April 5, 1952).

**Chapter 35**

- c. 34, s. 19A      Advances of vacation pay to officers and employees of certain counties, cities and towns (April 5, 1952).

**Chapter 39**

- c. 39, s. 6      Relative to election of mayor and alderman (April 16, 1867).
- c. 39, s. 7      Holding of other offices by mayor and aldermen (April 16, 1867).

**Chapter 40**

- c. 40, ss. 5, 8C      Establishment of conservation commission (May 25, 1964).
- c. 40, s. 6E      Temporary minor repairs on private ways (March 20, 1951).

- c. 40, s. 6K Municipalities authorized to purchase uniforms for public health nurses (April 11, 1972).
- c. 40, s. 22D Towing of illegally parked vehicles (April 30, 1962).
- c. 40 s. 22F Allow fees and charges to be set administratively (July 1, 1991).
- c. 40, s. 27A Reconsideration of proposed change in zoning ordinance after unfavorable action (December 2, 1940).
- c. 40, s. 30A Reconsideration of appeal or petition for variance from terms of zoning ordinances after unfavorable action (June 19, 1951).
- c. 40, s. 32A Concerning advertising certain ordinances (April 30, 1942).
- c. 40, s. 39K Authorizing the establishment of budgetary based enterprise accounts for both the water and sewer operations within the Department of Public Works (May 30, 1989).
- c. 40,  
s.42A-42F Collection of water rates (June 18, 1923).
- c. 40,  
ss. 42A-42D Liens for water rates and charters (December 14, 1954).
- Chapter 40D**
- c. 40D Industrial development of cities and towns (December 15, 1970).
- Chapter 41**
- c. 41, s. 12 Terms of office of city clerks (December 11, 1900).
- c. 41, s. 19F Additional compensation for city clerks serving as clerks of city council (May 14, 1962)(Acts of 1979, c. 467 December 11, 1979 city clerk paid additional compensation for serving as clerk of city council).
- c. 41, ss. 19G,  
19H (Acts 1971,  
c. 64) Renumeration for city and town clerks, members of board of registrars of voters (June 15, 1971)
- c. 41, s. 34A Changing name of overseers of poor to board of public welfare (November 15, 1925).
- c. 41, ss. 73-81 Relative to establishment of board of survey (November 30, 1925).
- c. 41, s. 81A Planning Board (June 6, 1939).
- c. 41, s. 91 Appointment of constables (January 23, 1899).
- c. 41, s. 100A Authorizing indemnification of officer or employee for expenses or damages incurred in defense or settlement

of claim arising out of operations of motor vehicle owned by city (June 7, 1937; November 8, 1965).

- c. 41, sec 100G Accepted Dec. 9, 1999
- c. 41, s. 100I Indemnification of municipal officers (correcting previous adoption on February 17, 1976)(May 18, 1976).
- c. 41, s. 108L Accept Home Rule provisions on behalf of the members of the Worcester Police Officer's Union, IBPO, Local 378 (December 29, 1987).
- c. 41, s. 111 Vacations of laborers (November 3, 1914); (June 21, 1915).
- c. 41, s. 111A Vacations for members of the police and fire departments (April 26, 1949).
- c. 41, s. 111H Overtime service by police officers of certain cities and towns (October 27, 1953).

#### **Chapter 43**

- c. 43, ss.1-45 Adoption of the Plan E Charter (November 4, 1947).  
& 93-116

#### **Chapter 44**

- c. 44, s. 8A Relative to submitting to voters question of approving or disapproving ordinance authorizing issue of bonds, notes or certificates of indebtedness for certain purposes (November 7, 1939).
- c. 44, s. 16A Use of facsimile counter signatures upon bonds, notes and certificates of indebtedness issued by cities (May 13, 1957).
- c. 44, ss. 35, 36 Requiring certain cities and towns to vote on question of installation by commonwealth of a municipal accounting system (December 12, 1922).
- c. 44, s. 53C Revolving fund to pay police for off-duty work details (December 29, 1972).

#### **Chapter 45**

- c. 45, ss. 2-9 Authorizing towns and cities to lay out parks (November 4, 1884).
- c. 45, s. 15,16 Public playgrounds (December 8, 1908).

#### **Chapter 48**

- c. 48, s. 3, 4 Demolition of buildings during fire (September 17, 1894).

- c. 48, s. 36-37                      Promotion of call men in fire departments (December 9, 1913).
- c. 48, s. 57                              Days off for members of fire departments (December 10, 1912).
- c. 48, s. 57A                            Additional day off or pay to fire fighters working on certain legal holidays (November 16, 1954).
- c. 48, c. 57B                            Time off without loss of pay to delegates to the state convention of the Associated Firefighter of Mass. AFL-CIO (May 25, 1959).
- c. 48, c. 57D                            Additional day off or pay for firefighters and others working legal holidays (February 19, 1968).
- c. 48, s. 58A                            Providing for seventy hour weeks for firemen (September 26, 1944).
- c. 48, s. 58d                            Forty-two hour work week for firefighters (April 27, 1971).
- c. 48, s. 59                              Providing for division into day and night forces of permanent members of fire departments. (Two platoon system)(November 4, 1919).
- c. 48, s. 59B-59E                      Reserve fire forces in cities and towns (November 27, 1951).

**Chapter 52**

- c. 52, c. 53                              To abolish enrollment of political parties and to limit the membership of ward and town committees (November 3, 1914).
- To prevent voters of one political party from voting in primaries of another political party (November 7, 1916).

**Chapter 54**

- c. 54, ss. 11-23                          Election of inspector of elections (October 15, 1877).
- c. 54, s. 11A                              Appointment of deputy election officers (April 17 1939).
- c. 54, s. 16A.                              Relative to appointment of election officer in case of vacancy (October 7, 1943).
- c. 54, s. 103A                              Absentee voting at city elections (May 27, 1935).

**Chapter 59**

- c. 59, s. 2A(a)                            Allowing the city to assess new buildings, structures or other physical improvements added to the real property between January second and June thirtieth beginning with the fiscal year commencing July 1, 1992 (July 1, 1992).

c. 59, s. 5                   Clauses seventeenth C and forty-first B. Relative to certain real estate tax exemptions (September 4, 1984).

c. 59, s. 57C                Allowing the city to implement a quarterly tax payment system beginning with the fiscal year commencing July 1, 1992 (March 10, 1992).

**Chapter 60A**

c. 60A, s. 1                Exemption from Motor Vehicle Excise for motor vehicle owned by former prisoner of war; Acts of 1982, c. 597 (August 14, 1984).

**Chapter 64J**

c. 64J, s. 13              Imposition, payment, collection and distribution of an excise tax on the sale or use of aircraft fuel in the city (September 5, 1989).

**Chapter 71**

c. 71, s. 2E                Revolving account within school department to benefit community school programs (Note: G.L. c. 71, s. 3, waived) (March 24, 1981).

c. 71, ss. 21-26           Establishment and maintenance of continuation schools and courses of instruction for employed minors (November 4, 1919).

c. 71, s. 40               Relative to equal pay for men and women teachers (November 4, 1947).

c. 71, s. 40               Minimum salary for teachers - Worcester Public Schools (August 23, 1988).

c. 71                      Of the Acts of 1996 entitled "An Act Authorizing Creditable Public Employees Creditable Retirement Service Time for Active Service in the Armed Forces

**Chapter 74**

c. 74, ss. 15-17           Authorizing cities to maintain schools of agriculture and horticulture (November 7, 1916).

**Chapter 80**

c. 80, s. 13                Apportionment of sewer and sidewalk assessments (November 8, 1980).

**Chapter 82**

c. 82, s. 37                Relative to establishment of building lines (April 28, 1924).

Authorizing establishment of building lines (April 22, 1937).

### **Chapter 83**

- c. 83, s. 12 Repair and private drains in streets or ways (November 13, 1893).
- c. 83, s. 14 Use of sewers and drains by property owners and assessment therefore (April 16, 1867).
- c. 83, ss.16A-16F Permitting City Treasurer to place a lien on unpaid sewer user charges.
- c. 83, s. 25 Laying out, grading, etc., sidewalks (April 16, 1867).  
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### **Chapter 85**

- c. 85, s. 11A Registration of bicycles (December 8, 1941).

### **Chapter 87**

- c. 87, s. 2 Setting out and maintaining shade trees upon public squares and streets (April 16, 1867).

### **Chapter 90**

- c. 90, s. 18A Pedestrian control law (February 28, 1966).
- c. 90, ss. 20A, 20C, 20D Non-criminal disposition of parking violations in cities and towns in the commonwealth (January 21, 1963).

### **Chapter 94**

- c. 94, ss. 120-A Providing fees and additional fees for slaughtering businesses (April 26, 1950).
- c. 94, ss. 146-150 Inspection and sale of provisions and animals intended for slaughter (April 2, 1883).
- c. 94, s. 236 Appointment of weighers and hay and other articles (April 16, 1867).

### **Chapter 98**

- c. 98, s. 34 Establishment, powers and duties of department of sealers of weights and measures (April 16, 1867).

### **Chapter 111**

- c. 111, ss. 26-28 Establishment of boards of health (November 6, 1877).
- c. 111, s. 126 Preservation of public health (privy vaults) (March 26, 1895).

### **Chapter 115**

c. 115,  
ss. 3, 3A State and military aid and soldiers' relief (June 5,  
1939).

Chapter 127,  
sec 51 Of the Acts of 1999 - COLA (Adopted Dec. 21, 1999)

#### **Chapter 136**

c. 136, ss. 2,  
4, 4B, 6 To permit bowling on the Lord's Day (September 21,.  
1946)

c. 136, s. 6 Sale of ice cream, confectionery, soda water and fruit  
on the Lord's Day (January 17, 1910).

c. 136,  
ss. 21-28 Sports and games on the Lord's Day (April 12, 1920 and  
December 14, 1920).

c. 136,  
ss. 2, 21-28 Sports and games on the Lord's Day (November 26, 1928  
and March 16,1931).

#### **Chapter 138**

c. 138, s. 12B Regulating nude entertainment at certain premises  
licensed to sell alcoholic beverages (Acts of 1981, c.  
606)(March 2, 1982).

c. 138, s. 17A Relative to the granting of year round on-premises  
alcoholic beverage license (June 14, 1983).

#### **Chapter 139**

c. 139, ss. 1-3 Allowing board of alderman to adjudge burnt, etc.,  
buildings as dangerous and providing for removal and  
abatement (April 16, 1867).

Disposition of burnt, dilapidated or dangerous building  
(April 6, 1964).

#### **Chapter 140**

c. 140,  
ss. 115-119 Licensing setting up and operating furnaces, steam  
engines and boilers (April 16, 1867).

c. 140, s. 118 Licensing setting up and operating stationary engines  
(April 16, 1867).

c. 140, ss. 131D-  
136 Smoke nuisance (December 15, 1948).

c. 140, s. 185H Licensing and police supervision of dancing schools,  
so-called (January 16, 1961).

#### **Chapter 143**

- c. 143, ss. 3, 12                   Prevention of fires (November 8, 1880).
- c. 143, ss. 6-9                    Protection of public against unsafe and dangerous buildings (November 22, 1880).

**Chapter 147**

- c. 147, s. 10F                    Appointment of parking control officers (February 7, 1966).
- c. 147, ss. 16,17                Vacations of members of police departments (July 13, 1914).
- c. 147, s. 16A                    One day off in every seven days for police officers (December 20, 1937).
- c. 147, s. 16B                    Providing for one day off in six for policemen (September 26, 1944).
- c. 147, s. 16C, 17                Five day week for members of the police force in certain cities and towns (January 3, 1952).
- c. 147, s. 17A                    Additional day off/pay to police officers for certain legal holidays (November 16, 1954).
- c. 147, s. 17G                    Overtime compensation for police officers (November 17, 1970).

**Chapter 148**

- c. 148, s. 26C                    Requiring hotels and boarding houses to be equipped with automatic smoke and heat detectors (February 24, 1976).
- c. 148, s. 26G                    Further regulating the installation of automatic sprinkler systems (Acts of 1982, c. 545)(June 28, 1983).
- c. 148, s. 26H                    Lodging or boarding houses; automatic sprinkler systems (September 25, 1990).
- c. 148, s. 56                    Providing for licensing of open air parking spaces (June 13, 1946).

**Chapter 149**

- c. 149, s. 30                    Hours of labor of public employees and persons employed on public works (Revoked May 20, 1980)(February 26, 1923).  
  
Revolking acceptance of G.L., c. 149, s. 30; re; 6 day work week for certain employees (G.L., c. 149, s. 30 had been accepted on February 26, 1923. Revocation authorized by Acts of 1979, c. 151, s. 14)(May 20, 1980).
- c. 149, s. 31                    Making eight hours a day's work for city and town employees (December 11, 1900).

- c. 149,  
ss. 30-36 Constituting eight hours a day's work for public employees (December 9, 1913).
- c. 149, s. 33A Authorizing a forty hour week (May 12, 1948).
- c. 149, s. 33A Forty hour week for school custodians (April 5, 1950).
- c. 149, s. 33B Prohibits splitting or breaking up employee workday (December 18, 1956).
- c. 149,  
ss. 41, 42 Making Saturday a half-holiday for laborers, workmen, etc. (November 3, 1914).

#### **Chapter 152**

- c. 152, s. 69 Extension of application of workmen's compensation law to include all employees except policemen and firemen (December 23, 1947).
- c. 152,  
ss. 69-74 Compensating certain public employees for injuries sustained in course of employment (November 4, 1913 and December 9, 1913).

#### **Chapter 159A**

- c. 159A, ss. 1,  
6,12 Licensing of motor vehicles carrying passengers for hire (September 15, 1919).

#### **Chapter 180**

- c. 180, s. 17A Payroll deductions for union dues (June 6, 1960).
- c. 180, s. 17G Agency service procedures (September 29, 1970).
- c. 194, sec 288 of the Acts of 1998 - Retirement benefits of City employees who retired before Jan. 12, 1988, chose retirement option "c" and whose beneficiary predeceased them. (Nov. 10, 1998)

#### **Chapter 262**

- c. 262, s. 53C Time off to police officers in attendance in certain criminal cases (December 23, 1963).

## Part 2 - Special Acts

<u>Special Act</u>	<u>Subject Matter and Date of Acceptance</u>
1893, c. 444	City charter (December 19, 1893).
1914, c. 461	Appointment of license commissioners (ss. 54A, 54B of former charter) (March 25, 1914).
1916, c. 98	An act to ascertain and carry out the will of the people relative to the calling and holding of a constitutional convention (November 7, 1916).
1932, c. 49	Making and awarding of certain contracts by city (amending charter, ss. 40, 40A, 40B)(November 7, 1933).
1945, c. 447	Relative to granting vacations to returning service men after service during the present war (December 10, 1945).
1946, c. 559.	Increasing amounts of pensions payable to certain former public employees who have retired (February 21, 1947).
1946, c. 661	Nomination of city council and school committee by preliminary election; election by plurality voting. (Accepted by voters November 8, 1960).
1952, c. 624	Increasing amounts of pensions, retirement allowances and annuities payable to certain former public employees (June 23, 1953).
1953, c. 346	Vacations to employees who return to the service of certain counties, cities or towns after serving in the armed forces of the United States during the period of the hostilities in Korea (September 29, 1953).
1953, c. 434	Rent control (July 7, 1953).
1955, c. 225, s. 2	Rent control (April 20, 1955).
1955, c. 670	Increasing amounts of pensions, retirement allowances and annuities payable to certain former public employees (January 24, 1956).
1956, c. 401	An act extending to certain civil defense volunteers the provisions of law applicable to municipal employees for indemnification of damages sustained through operation of publicly owned vehicles (October 2, 1956).
1957, c. 427	Increase of pension for certain retired police officers and firefighters (October 14, 1957).
1961, c. 552	Minimum benefits for widows of deceased members of retirement systems and for widows of certain employees

killed in the performance of their duties (October 2, 1961).

1962, c. 381 Utilization of three parcels of land under jurisdiction of Parks and Recreation (April 23, 1974).

1965, c. 277 Increase of non-contributory pension paid to former policemen (December 6, 1965).

1965, c. 278 Increase of non-contributory pension paid to former firefighters (December 6, 1965).

1973, c. 198 City demonstration employees - civil service exemption (June 26, 1973).

1976, c. 216 Authorizing establishment of Civic Center Commission (June 29, 1976).

1980, c. 217 Advertising for contracts for purchases of equipment, supplies or materials in excess of \$4,000 (August 26, 1980).

1981, c. 339 Enabling city to develop enterprise fund accounts for larger revenue producing departments (January 19, 1982).

APPENDIX C - SALARY ORDINANCE - (These items are published separately and are on file with the city clerk.)

APPENDIX D - ZONING ORDINANCE & MAP (These items are published separately and are on file with the city clerk.)

APPENDIX E - FIRE PREVENTION CODE (These items are published separately and are on file with the city clerk.)

APPENDIX F - CITY CHARTER OF THE CITY OF WORCESTER

ARTICLE ONE

INCORPORATION

§ 1-1. INCORPORATION

§ 1-2. SHORT TITLE

§ 1-3. DISTRIBUTION OF POWERS

§ 1-4. POWERS OF THE CITY

§ 1-5. CONSTRUCTION

§ 1-6. INTERGOVERNMENTAL RELATIONS

§ 1-7. DEFINITIONS

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§ 1-1. INCORPORATION

The inhabitants of the city of Worcester within the territorial limits established by law, shall continue to be a municipal corporation, a body corporate and politic, under the name "city of Worcester".

§ 1-2. SHORT TITLE

This instrument shall be known and may be cited as the Worcester home rule charter.

§ 1-3. DISTRIBUTION OF POWERS

The administration of the fiscal, prudential and municipal affairs of the city of Worcester, with the government thereof, shall be vested in an executive branch headed by a city manager, and a legislative branch to consist of a city council.

§ 1-4. POWERS OF THE CITY

Subject only to express limitations on the exercise of any power or function by a municipal government in the constitution or general laws of the

commonwealth, it is the intention and the purpose of the voters of Worcester through the adoption of this charter to secure for themselves and their government all of the powers it is possible to secure as fully and as completely as though each such power was specifically and individually enumerated herein.

#### **§ 1-5. CONSTRUCTION**

The powers of the city of Worcester under this charter are to be construed liberally to its benefit and the reference to any particular power herein shall not be construed to limit the general powers of the city as stated in § 1-4.

#### **§ 1-6. INTERGOVERNMENTAL RELATIONS**

Subject only to the express limitations in the constitution or general laws of the commonwealth, the city of Worcester may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the commonwealth or any agency or political subdivision thereof, or with the United States government or any agency thereof.

#### **§ 1-7. DEFINITIONS**

The following words and phrases as used in this charter shall, unless the context requires otherwise, have the following meanings.

(a) **Charter** - The word "charter" shall mean this charter and any amendment to it hereafter adopted.

(b) **City** - The word "city" shall mean the city of Worcester.

(c) **City Agency** - The words "city agency" shall mean any multiple member body, department, division or office of the city.

(d) **City Bulletin Board** - The words "city bulletin board" shall mean the bulletin board in city hall on which the city clerk posts official notices of meetings and upon which other official city notices are posted. It shall also mean any other bulletin boards as may be designated "city bulletin boards" by the city council.

(e) **City Officer** - The words "city officer" when used without further qualification shall mean a public officer as defined by law, and shall also mean a person having charge of an office or department of the city who in the exercise of his/her powers or duties exercises some portion of the sovereign power of the city.

(f) **Emergency** - The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence or condition necessitating immediate action or response.

(g) **Full Council, Full Multiple Member Body** - The words "full council" or "full multiple member body" shall mean the entire

authorized complement of the city council, school committee or other multiple member body notwithstanding any vacancy which might exist.

(h) **general laws** - The words "general laws" (all lower case letters) shall mean laws enacted by the general court which apply alike to all cities and towns, to all cities, to all towns, or to a class of two or more cities and towns of which Worcester is a member.

(i) **General Laws** - The words "General Laws" (initial letter of each word in upper case letters) shall mean the General Laws of the Commonwealth of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently adopted.

(j) **Initiative Measure** - The words "initiative measure" shall mean a measure proposed by the voters through the initiative process provided under article seven of this charter.

(k) **Local Newspaper** - The words "local newspaper" shall mean a newspaper of general circulation within the City, with either a weekly or daily circulation.

(l) **Majority Vote** - Unless otherwise specifically provided within this charter or by law, ordinance or the rules adopted by a multiple member body, the words "majority vote" shall mean a majority of those members present and voting of a multiple member body, provided a quorum is present.

(m) **Measure** - The word "measure" shall mean any ordinance, order, resolution, or other vote or proceeding adopted, or which might be adopted by the city council or the school committee.

(o) **Multiple Member Body** - The words "multiple member body" shall mean any board, commission, committee, sub-committee or other body consisting of two or more members whether elected, appointed, or otherwise constituted but not including the city council or the school committee.

(p) **Referendum measure** - The words "referendum measure" shall mean a measure adopted by the city council or by the school committee which is protested in accordance with the referendum procedures provided under article seven of this charter.

(q) **Voters** - The word "voters" shall mean registered voters of the city of Worcester.

ARTICLE TWO  
THE CITY COUNCIL

- § 2-1. COMPOSITION, TERMS, LEGISLATIVE POWERS
- § 2-2. ORGANIZATION, MAYOR
- § 2-3. PROHIBITIONS
- § 2-4. SALARIES
- § 2-5. GENERAL POWERS
- § 2-6. EXERCISE OF POWERS, QUORUM, RULES
- § 2-7. ACCESS TO INFORMATION
- § 2-8. OFFICERS ELECTED BY THE CITY COUNCIL
- § 2-9. ORDINANCES & OTHER MEASURES
- § 2-10. FILLING OF VACANCIES

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§ 2-1. COMPOSITION, TERMS, LEGISLATIVE POWERS

(a) **Composition:**

There shall be a city council of eleven members which shall exercise the legislative powers of the city. Six of these members, to be known as councilors at-large, shall be nominated and elected by and from the voters at large. Five of these members, to be known as district councilors, shall be nominated and elected by and from the voters of each district; one such district councillor to be elected from each of the five council districts into which the city is divided in accordance with § 7-6 of this charter.

(b) **Term of office:**

City councilors shall be elected for terms of two years each, beginning on the first secular day of January in the year following their election and shall serve until their successors are qualified.

(c) **Eligibility:**

Any voter shall be eligible to hold the office of councillor at-large; provided, however, that he/she shall have resided in the city for a period of at least one year. A district councillor shall at the time of his/her election be a voter of the district from which he/she is elected and shall have resided therein for a period of at least one year. If any such district councillor shall, during the term for which he/she was elected, remove to another district

in the city, or be so removed by a revision of district lines, such councillor may continue to serve for the balance of the term for which he/she was elected.

**(d) Legislative powers:**

The city council shall have and shall exercise all the legislative powers of the city, except as such powers are reserved by this charter to the school committee or to the qualified voters of the city.

**§ 2-2. ORGANIZATION, MAYOR**

**(a) Organization:**

The city council, elected as aforesaid, shall meet on the first secular day of January, following the regular municipal election, and the members of the city council shall severally make oath, before the city clerk or a justice of the peace, to perform faithfully the duties of their respective offices, except that any member-elect not present shall so make oath at the first regular meeting of the city council thereafter which he/she attends. The organization of the city council shall take place as aforesaid, notwithstanding the absence, death, refusal to serve or non-election of one or more of the members; provided, that a majority of all the members elected to the city council are present and have qualified. For the purposes of organization, the city clerk shall be temporary chair until the mayor or vice-chair has qualified.

**(b) Selection of the mayor and vice-chair:**

(1) All candidates nominated in the preliminary election for the office of councillor at large in accordance with § 7-4, shall appear on the ballot as candidates for councillor at large in the regular municipal election and shall also be listed on a separate portion of the ballot as candidates for the office of mayor. The candidate elected to the office of councillor at large and receiving the highest number of votes for the office of mayor shall be mayor. The candidate elected to the office of councillor at large and receiving the next highest number of votes for the office of mayor shall be vice-chair of the city council.

(2) A candidate duly nominated and seeking election solely for the office of councillor at large may withdraw his/her name from nomination to the office of mayor in accordance with the procedures set forth in § 7-4(e) but shall not be replaced by the candidate with the next highest number of votes in the preliminary election.

**(c) Powers and duties of the mayor:**

(1) The mayor shall be recognized as the official head of the city for all ceremonial purposes and shall be recognized by the courts for the purpose of serving civil process and by the governor for military purposes. He/she shall be chair of the city council.

(2) The mayor shall have no power of veto but shall have the same powers as any other member of the city council to vote upon all measures coming before it. He/she shall perform such duties consistent with his/her office as may be provided by this charter, by ordinance, or by majority vote of the city council.

(3) The mayor shall serve as chair of the school committee. He/she shall have no power of veto but shall have the same powers as any other member of the school committee to vote upon all measures coming before it.

(4) The mayor shall have no power of appointment except those powers specifically granted to the mayor in this charter and except as to the appointment of the secretaries, stenographers, clerks, telephone operators, and messengers connected with his/her office whose appointment shall not be subject to the civil service laws. The mayor may remove said appointees without a hearing and without making a statement as to the cause of their removal.

**(d) Council vice-chair:**

During the absence or disability of the mayor, or during the time such office is vacant, the vice-chair shall perform the duties of the mayor.

**(e) Vacancies in the office of mayor or vice-chair:**

If the office of mayor or vice-chair become vacant, the vacancy shall be filled by the councillor-at-large receiving the next highest number of votes for mayor at the preceding regular municipal election, provided such person remains eligible and willing to serve. The board of election commissioners shall certify such candidate to the office of mayor or vice-chair to serve for the balance of the then unexpired term. If there be no candidate eligible and willing to serve to fill a vacancy in the office of mayor or vice-chair, the city council shall, by majority vote, elect one of its members to fill such office for the unexpired term. No vacancy in the office of mayor or vice-chair shall be filled so long as there is any vacancy in the council.

**§ 2-3. PROHIBITIONS**

(a) Neither the city council nor any of its committees or members shall direct or request the appointment of any person to, or his/her removal from, office by the city manager or any of his/her subordinates, or in any manner take part in the appointment or removal of officers and employees in that portion of the service of the city for whose administration the city manager is responsible. Except for the purpose of inquiry and as otherwise provided in § 2-8 of this charter, the city council and its members shall deal with that portion of the service of the city as aforesaid solely through the city manager and neither the city council nor any member thereof shall give orders to any subordinate of the city manager either publicly or privately.

(b) Any member of the city council who violates, or participates in the violation of, any provision of this § shall be punished by a fine of not more than five hundred dollars, and upon final conviction thereof his/her office in the city council shall thereby be vacated.

**§ 2-4. SALARIES**

The mayor and the members of the city council shall receive for their services such salary as the city council shall by ordinance determine, and they shall receive no other compensation from the city. No increase or reduction in the salaries of mayor or city councillor shall take effect during the year in which such increase or reduction is voted, and no change in such salaries shall be made between the election of a new council and the qualification of the new council.

**§ 2-5. GENERAL POWERS**

Except as otherwise provided by general law or by this charter, all powers of the city shall be vested in the city council which shall provide for their exercise and for the performance of all duties and obligations imposed upon the city by law.

**§ 2-6. EXERCISE OF POWERS, QUORUM, RULES**

**(a) Exercise of powers:**

Except as otherwise provided by general law or by this charter, the legislative powers of the city council may be exercised as provided by ordinance or rule adopted by it.

**(b) Quorum:**

The presence of six members shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. Except as otherwise provided by general law or by this charter, the affirmative vote of six members shall be required to adopt any measure. A majority vote of those members present, however, shall be sufficient to adjourn any meeting of the city council.

**(c) Rules of procedure:**

The city council shall from time to time establish rules for its proceedings which shall be made available to the public and the press. Such rules shall include and be subject to the following:

(1) Regular and special meetings shall be held at a time and place fixed by ordinance.

(2) The mayor or the vice-chair of the city council, or any five members thereof, may at any time call a special meeting by causing written notice, stating the time and place of such meeting and signed by the councillor(s) calling the same, to be delivered in hand to each member of the city council, or left at his/her usual dwelling place, at least twelve hours before the time of such meeting. Except in the case of an emergency, notice of such special meeting, in accordance with chapter thirty-nine, section twenty-three B of the General Laws, shall be posted on the city bulletin board at least forty-eight hours in advance of the time set for such special meeting.

(3) Subject to the requirements of section twenty-three B of chapter thirty-nine of the General Laws, meetings of the city council may also be held at any time when all the members of the city council are present and consent thereto.

(4) Except when meeting in executive session as authorized by section twenty-three B of chapter thirty-nine of the General Laws, all meetings of the city council shall be open to the press and to the public.

(5) At any meeting of the city council, the citizens and employees of the city shall have a reasonable opportunity to be

heard regarding any matter presently under consideration by the council.

(6) Every matter coming before the city council for action shall be put to a vote, the result of which shall be duly recorded. All final votes of the city council on questions involving the expenditure of five hundred dollars or more, or upon the request of any member, shall be by roll call and the yeas and nays shall be entered on the record. A full, accurate and up to date journal of the proceedings of the city council shall be kept by the city clerk and shall be open to the inspection of the public, with reasonable promptness following each meeting.

**(d) Presiding officer:**

The mayor, if present, shall preside at the city council meetings and may vote. In the absence of the mayor, the vice-chair of the city council shall preside and, in the absence of both, a temporary chair shall be chosen, who shall serve during the absence of both the mayor and vice-chair.

**§ 2-7. ACCESS TO INFORMATION**

The city council may, at any time, request from the city manager, specific information on any municipal matter within its jurisdiction, and may request him/her to be present to answer written questions relating thereto at a meeting to be held not earlier than one week from the date of receipt by the city manager of said questions. The city manager, shall personally, or through the head of a department or a member of a board, attend such meeting and publicly answer all such questions. The person so attending shall not be obliged to answer questions relating to any other matter. The city manager, may attend and address the city council in person or through the head of a department or a member of a board, upon any subject and at any time.

**§ 2-8. OFFICERS ELECTED BY THE COUNCIL**

**(a) City Clerk:**

The city council shall, by majority vote, elect a city clerk to hold office for two years or for such other term as provided by general or special law, and until his/her successor is qualified. The city clerk shall have such powers and perform such duties as the city council may require, in addition to such duties as may be prescribed by law. He/she shall be, ex-officio, clerk of the city council, and shall keep records of its proceedings; but in case of his/her absence or disability or of a vacancy in the office, the city council shall elect a temporary city clerk, who shall be sworn to the faithful discharge of his/her duties and shall act as clerk of the city council until the city clerk resumes his/her duties or a new city clerk is qualified.

**(b) City Auditor:**

The city council shall, by majority vote, elect a city auditor to hold office for two years or for such other term as provided by general or special law, and until his/her successor is qualified. He/she shall keep and have charge of the accounts of the city and, from time to time, shall audit the books and accounts of all departments, commissions, boards and offices of the city, and shall have such other powers and perform such other duties as the city council may prescribe, in addition to such duties as may be prescribed by law. In the event of the absence or disability of the city auditor or of a

vacancy in the office, the city council shall elect a temporary city auditor, who shall be sworn to the faithful discharge of his/her duties and shall act as city auditor until the city auditor resumes his/her duties or a new city auditor is qualified.

## **§ 2-9. ORDINANCES & OTHER MEASURES**

### **(a) Emergency ordinances:**

(1) No ordinance shall be passed finally on the date it is introduced, except in cases of special emergency involving the health or safety of the people or their property.

(2) No ordinance shall be regarded as an emergency ordinance unless the emergency is defined and declared in a preamble to such ordinance, separately voted upon, and receiving the affirmative vote of eight members of the city council.

(3) No ordinance making a grant, renewal or extension, whatever its kind or nature, of any franchise or special privilege of any kind or nature, shall be passed as an emergency measure, and except as provided in sections seventy and seventy-one of chapter one hundred and sixty four and in chapter one hundred and sixty-six of the General Laws, no such grant, renewal or extension shall be made otherwise than by ordinance.

### **(b) Measures, in general:**

(1) Excepting only proposed ordinances, appropriation orders and loan authorizations, the city council may pass any other measure through all of its stages at any one meeting, provided that no member of the city council shall object; but, if any single member objects, a vote on the measure shall be postponed to the next meeting of the city council.

(2) On the first occasion that the question of adopting any measure is put to the city council, except an emergency measure as defined in § 2-9(a), if a single member objects to the taking of a vote, the vote shall be postponed until the next regular or special meeting of the city council. If when the matter is next taken up for a vote, four or more members object to the taking of the vote, the matter shall be further postponed for not less than an additional five days. This procedure shall not be used more than once for any measure, notwithstanding any amendment made to the original measure.

### **(c) Publication:**

(1) Every proposed ordinance, or loan order, except emergency ordinances as provided in § 2-9(a) and revenue loan orders, shall be published once in full in at least one local newspaper, and in any additional manner as may be provided by ordinance, at least ten days before its final passage. After final passage, the ordinance as amended and completed, shall again be published once in the aforesaid manner; provided that if any ordinance or proposed ordinance, or codification thereof, shall exceed in length eight octavo pages of ordinary book print, then there shall be no requirement to advertise as aforesaid if the

same is published by the city council in a municipal bulletin or printed pamphlet, but otherwise in conformity with said provisions, except for zoning ordinances or amendments thereto, a summary of which shall be published at least two times in a local newspaper. The publication of such zoning summaries shall include a statement indicating where copies of the ordinance may be examined and obtained and a statement that claims of invalidity by reason of any defect in the procedure of adoption may only be made within ninety days after the posting or the second publication.

(2) Emergency ordinances shall take effect on the date of their passage and shall be published at the earliest practicable moment.

#### **§ 2-10. FILLING OF VACANCIES**

##### **(a) Councilors-at-large:**

If a vacancy shall occur in the office of councillor-at-large, the vacancy shall be filled in descending order of votes received by the candidate for the office of councillor-at-large at the preceding regular municipal election who received the largest number of votes for the office of councillor-at-large without being elected, provided such person remains eligible and willing to serve. The board of election commissioners shall certify such candidate to the office of councillor-at-large to serve for the balance of the then unexpired term.

##### **(b) District councillor:**

If a vacancy shall occur in the office of district councillor it shall be filled in the same manner as provided in § 2-10(a) for the office of councillor-at-large, except that the list shall be of the candidates for the office of district councillor in the district in which the vacancy occurs, provided however, if there be no candidate on such list who remains eligible and willing to serve, the vacancy shall be filled at a special election called by the city council to be held within ninety days after the city council is notified by the board of election commissioners that the vacancy cannot be filled as aforesaid.

**ARTICLE THREE**

**CITY MANAGER**

- § 3-1. APPOINTMENT, TERM OF OFFICE, QUALIFICATIONS
- § 3-2. POWERS & DUTIES
- § 3-3. APPOINTMENTS & REMOVALS
- § 3-4. CITIZENS ADVISORY COUNCIL
- § 3-5. REGULATIONS
- § 3-6. COMPENSATION
- § 3-7. EVALUATION
- § 3-8. REMOVAL
- § 3-9. ACTING CITY MANAGER

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**§ 3-1. APPOINTMENT, TERM OF OFFICE, QUALIFICATIONS**

**(a) Appointment:**

The city council shall appoint a city manager who shall be sworn to the faithful performance of his/her duties and who shall be the chief administrative and executive officer of the city responsible for the administration of all city agencies whether established before the adoption of this charter or thereafter, except that of the city clerk, city auditor, or any official appointed by the governor or any body elected by the voters of the city.

**(b) Term:**

The city council shall enter into an employment agreement with the city manager for a term not to exceed five years; the city manager may, however, serve consecutive successive terms. The terms of the employment agreement shall be consistent with the provisions of this charter.

**(c) Qualifications:**

(1) The city manager shall be appointed on the basis of his/her administrative and executive qualifications only and need not be a resident of the city or commonwealth when appointed; provided, however, that he/she shall become a resident of the city within six months after his/her appointment. No person, age seventy years or over, shall be eligible to serve as city manager.

(2) No member of the city council shall during his/her term of office be chosen as city manager and no person who has within two years been elected to or served in any elective office in the city or in Worcester county shall be chosen as city manager.

**§ 3-2. POWERS AND DUTIES**

The city manager shall have and possess, and may exercise, all the power, rights and duties, other than legislative, commonly associated with municipal chief executive or administrative officers. The city manager shall be the chief administrative and executive officer of the city and shall be responsible to the city council for the proper administration of all city affairs properly entrusted to him/her by the city council or under this charter. The powers and duties of the city manager shall include, but shall not be limited to the following:

(1) To act as chief conservator of the peace within the city. He/she shall have all the authority and power conferred upon a city manager under section forty-two of chapter thirty-three of the General Laws.

(2) To supervise the administration of the affairs of the city.

(3) To ensure that, within the city, the general laws and the ordinances, resolutions, and regulations of the city council are faithfully executed.

(4) To make such recommendations to the city council concerning the affairs of the city as he/she may deem necessary and desirable.

(5) To make reports to the city council from time to time upon the affairs of the city.

(6) To keep the city council fully advised of the city's financial condition and its future needs.

(7) To prepare and submit to the city council budgets as required by general law and article five of this charter. He/she may require the submission by all city agencies under his/her jurisdiction of detailed estimates of the full amounts necessary to meet their expenses for the next fiscal year pursuant to § 31A of chapter 44 of the General Laws.

**§ 3-3. APPOINTMENTS AND REMOVALS**

**(a) Department heads, officers, and employees:**

Such officers and employees as the city council, with the advice of the city manager, shall determine are necessary for the proper administration of the city agencies for whose administration the city manager is responsible, shall be appointed and may be removed, by the city manager. The city manager shall report every appointment and removal made by him/her to the city council at the next meeting thereof following such appointment or removal. The city manager may authorize the head of a city agency, for whose administration he/she is responsible, to appoint and remove subordinates in such city agency.

All appointments by or under the authority of the city manager, if subject to chapter thirty-one of the General Laws and the rules and regulations made under

authority thereof, shall be made in accordance therewith, and all other appointments as aforesaid shall be on the basis of executive and administrative ability and training and experience in the work to be performed.

**(b) Boards and commissions:**

(first para.) Every board and commission of the city shall be classified as executive, regulatory, or advisory by the city manager subject to approval, by majority vote, of the city council. Classification of boards and commissions shall be made in accordance with these definitions: boards and commissions classified as executive shall be those which set policy for a city department and/or act in the nature of city departments such as the airport commission, the board of trustees of the city hospital and the board of health; boards and commissions classified as regulatory shall be those which are administrative and/or adjudicatory in nature establishing policy in specific areas and/or applying laws and ordinances such as the conservation commission, the licensing commission and the zoning board of appeals; boards and commissions classified as advisory shall be those which provide information and advice to the city agencies, the city manager, the city council, or the school committee, such as the advisory committee on the status of women and the city manager's youth council.

**(1) Appointment** - Members of all boards and commissions classified as executive and regulatory shall be appointed by the city manager. Confirmation by the city council shall not be required for said appointments. Appointments to all boards and commissions classified as advisory shall be subject to confirmation, by majority vote, of the city council. The city manager shall follow open, fair and equitable procedures in making appointments to all boards and commissions in the city. The city manager shall not make or seek confirmation from the city council on any such appointments until he/she has received the list of names from the citizen advisory council in accordance with § 3-4. The city manager shall not be limited to those names submitted by the citizens advisory council in making appointments to boards or commissions.

**(2) Term** - Members of boards and commissions shall serve such terms of office as are provided in this charter, or by general law or ordinance; provided, however, that no member shall serve more than two consecutive full terms or a maximum of ten consecutive years on the same board and commission.

**(3) Restrictions** - Membership on boards and commissions classified as regulatory or advisory, consisting of five or fewer persons shall be restricted so that no more than one member shall reside in any one district; on boards and commissions consisting of six to ten persons, no more than two members shall reside in any one district; and on boards and commissions consisting of more than ten members, no more than three members shall reside in any one district. As used herein, a district shall be one of the five districts created for the election of city councilors, in accordance with § 7-6 of this charter.

**(4) Eligibility** - To be eligible for membership on a board or commission classified as regulatory or advisory, an individual must reside within the district from which he/she is appointed for a period of at least one year immediately prior to appointment. The residence of a member of a board or commission shall be determined at the time of his/her most recent such appointment. If a member of a board or commission classified as regulatory or [see below]<sup>1</sup> removed by a revision of district lines, such member may continue

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<sup>1</sup>[Editor's Note: wordings missing in original Charter Commission report]

to serve for the balance of the term for which he/she was appointed. Ex-officio members of any board or commission, for the purpose of appointment under this section, shall be deemed to be resident of no district.

#### **§ 3-4. CITIZENS ADVISORY COUNCIL**

(first para.) To assist the city manager in making appointments to boards and commissions in accordance with the preceding section, a citizen advisory council shall be established as follows:

##### **(a) Composition, appointment:**

The citizen advisory council shall consist of eleven members, appointed by the city manager, subject to confirmation, by majority vote of the city council.

##### **(b) Term:**

Each such member shall serve a term of three years and shall be restricted to serving two consecutive full terms.

##### **(c) Restrictions:**

Membership on the citizen advisory council shall be restricted so as to ensure that a minimum of two members thereof reside in each district. As used herein, a district shall be one of the five districts created for the election of city councilors in accordance with § 7-6 of this charter.

##### **(d) Duties and responsibilities:**

The citizen advisory council shall be responsible for publicizing vacancies on boards and commissions, recruiting nominees for any such vacancy, and advising the city manager of candidates for appointment to boards and commissions. The citizen advisory council shall submit two or more names to the city manager for every vacant position. Any such candidates submitted shall meet the requirements for appointment to boards and commissions contained in § 3-3. The citizen advisory council shall make every effort to seek applicants from under represented groups in the city and shall give equal consideration to applicants from all segments of the community in submitting names to the city manager for appointment.

#### **§ 3-5. REGULATIONS**

Officers and employees of the city appointed by, or under the authority of, the city manager shall perform the duties required of them by the city manager, under general regulations of the city council. Any violation of this section shall constitute sufficient grounds for removal of any such officer or employee.

#### **§ 3-6. COMPENSATION**

The city manager shall receive such compensation as the city council shall fix by ordinance.

#### **§ 3-7. EVALUATION**

The city council shall annually, in open session except as provided by section twenty-three B of chapter thirty-nine of the General Laws, conduct a general review and evaluation of the professional competence and job performance of the city manager.

**§ 3-8. REMOVAL**

Before the city manager may be removed prior to the end of the contract term, if he/she so demands, he/she shall be given a written statement of the reasons alleged for his/her removal and shall have the right to be heard publicly thereon at a meeting of the city council prior to the final vote on the question of his/her removal, but pending and during such hearing the city council may suspend him/her from office. The action of the city council in suspending or removing the city manager shall be final, it being the intention of this provision to vest all authority and fix all responsibility for such suspension or removal in the city council.

**§ 3-9. ACTING CITY MANAGER**

**(a) Temporary absence:**

The city manager shall, by letter filed with the city clerk, designate a qualified city officer or administrative employee to exercise the power and perform the duties of his/her office during his/her temporary absence. During the first fifteen business days of a temporary absence of the city manager, the city council may revoke such designation by two-thirds vote of the full council and may designate another qualified city officer or administrative employee to serve as a temporary city manager. After the expiration of fifteen business days, the city council may, by majority vote, designate an acting city manager to serve until the city manager shall return and resume his/her duties.

**(b) Acting city manager:**

In the event of the suspension of the city manager or a vacancy in said office, the city council shall designate a qualified city officer or administrative employee to serve as acting city manager until the city manager is reinstated or a new city manager is appointed.

**ARTICLE FOUR**  
**SCHOOL COMMITTEE**

- § 4-1. COMPOSITION, TERM OF OFFICE, POWERS
  - § 4-2. ORGANIZATION, MAYOR, VICE-CHAIR
  - § 4-3. CONFLICT OF INTEREST
  - § 4-4. SALARIES
  - § 4-5. MEETINGS OF THE SCHOOL COMMITTEE
  - § 4-6. VACANCIES
- 

**§ 4-1. COMPOSITION, TERM OF OFFICE, POWERS**

**(a) Composition:**

The school committee shall consist of the mayor, who shall chair the committee and six members elected at-large.

**(b) Term of office:**

School committee members shall be elected for terms of two years each, beginning on the first secular day of January in the year following their election and shall serve until their successors are qualified.

**(c) Eligibility:**

Any voter shall be eligible to hold the office of school committee member, provided, however, that he/she shall have resided within the City for one year immediately prior to the election.

**(d) Powers and duties:**

The school committee shall have all the powers which are conferred on school committees by general law and such additional powers and duties as may be provided by the charter, by ordinance, or otherwise. Its powers and duties shall include, but shall not be limited to the following:

(1) To take general charge of all the public schools in the city, including the evening schools and evening high schools, and all special programs conducted by the school department.

(2) To appoint a superintendent of the schools who shall be charged with the day to day administration of the school system,

subject to policy directives adopted by the school committee. The school committee may award a contract to the superintendent of schools for a term not to exceed six years, in accordance with section forty-one of chapter seventy-one of the General Laws.

(3) To appoint all other officers and employees connected with the schools, define their duties, fix their compensation, makes rules concerning their tenure of office, and to suspend or remove them at pleasure, subject to any applicable provision of the general law.

(4) To make all reasonable rules and regulations consistent with general law, for the management of the school department.

(5) To take control of all school buildings and grounds connected therewith. No site for a school building shall be acquired by the city unless the approval of the site by the school committee is first obtained. No plans for the construction of or alterations, with the exception of ordinary repairs, in a school building shall be accepted, and no such work shall be commenced on the construction or alteration of a school building unless the approval of the school committee and the city manager shall have first been obtained.

(6) To provide, when necessary, for temporary accommodation for school purposes.

(7) The school committee shall furnish all school buildings with proper fixtures, furniture and equipment and shall provide ordinary maintenance of all school buildings and grounds.

#### **§ 4-2. ORGANIZATION, MAYOR, VICE-CHAIR**

##### **(a) Organization:**

The school committee shall organize on the first secular day of January, in accordance with the procedures set forth for the organization of the city council in § 2-2.

##### **(b) Chair:**

The mayor shall serve as chair of the school committee and shall have the same power to vote on every matter coming before the school committee, as any other member.

##### **(c) Vice-chair:**

Once the school committee shall have organized and at that meeting, the committee shall elect one of its members, by majority vote of all the members elected, to serve as vice-chair. The vice-chair shall preside at all meetings of the committee at which the mayor is not present.

#### **§ 4-3. CONFLICT OF INTEREST**

Except as otherwise authorized by law, no member of the school committee shall, while a member thereof, hold any other office or position in the school department, the salary or compensation for which is payable out of the city treasury.

**§ 4-4. SALARIES**

The members of the school committee, other than the mayor, shall receive as compensation for their services a salary equal to fifty percent of the salary established for members of the city council in accordance with § 2-4 of this charter.

**§ 4-5. MEETINGS OF THE SCHOOL COMMITTEE**

**(a) Rules of procedure:**

The school committee shall from time to time establish rules for its proceedings which shall include and be subject to the following:

(1) All meetings of the school committee shall be open to the press and to the public, except as otherwise provided by section twenty-three B of chapter thirty-nine of the General Laws.

(2) The vote on any particular measure shall be by roll call when requested by any member and the yeas and nays shall be so recorded.

**§ 4-6. VACANCIES**

If a vacancy shall occur amongst the six at-large members of the school committee, said vacancy shall be filled in the same manner as provided in § 2-10(a) for the filling of vacancies in the office of councillor-at-large, from among the candidates for election to the office of school committee at the preceding regular municipal election.

**ARTICLE FIVE**

**FINANCIAL PROCEDURES**

- § 5-1. SUBMISSION OF BUDGET
- § 5-2. ACTION ON THE BUDGET
- § 5-3. SUPPLEMENTARY APPROPRIATIONS
- § 5-4. TRANSFER OF APPROPRIATIONS
- § 5-5. CAPITAL OUTLAY PROGRAM
- § 5-6. PURCHASE & TAKING OF LAND
- § 5-7. CITY MANAGER TO APPROVE CONTRACTS

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**§ 5-1. SUBMISSION OF BUDGET**

(a) Within the period prescribed by general law, the city manager shall submit to the city council an annual budget which shall be a statement of the amounts recommended by him/her for proposed expenditures of the city for the next fiscal year. The annual budget shall be classified and designated so as to show separately with respect to each city agency or undertaking for which an appropriation is recommended as follows:

(1) Ordinary maintenance, which shall also include debt and interest charges matured and maturing during the next fiscal year, and shall be subdivided as follows:

(A) Salaries and wages of officers, officials and employees other than laborers or persons performing the duties of laborers; and

(B) Ordinary maintenance not included under sub-section (A); and,

(2) Proposed expenditures for other than ordinary maintenance, including additional equipment, the estimated cost of which exceeds one thousand dollars.

(b) The foregoing shall not prevent the city, upon recommendation of the city manager and with approval, by majority vote, of the city council, from adopting additional classifications and designations.

**§ 5-2. ACTION ON THE BUDGET**

**(a) Public hearing:**

The city council may, and upon written request of at least ten registered voters shall, give notice of a public hearing to be held on the annual budget, prior to final action thereon, but not less than seven days after publication of such notice in a local newspaper. At the time and place so advertised, or at any time or place to which such public hearing may from time to time be adjourned, the city council shall hold a public hearing on the annual budget as submitted by the city manager, at which all interested persons shall be given an opportunity to be heard for or against the proposed expenditures or any item thereof.

**(b) Adoption:**

The city council may, by majority vote, make appropriations for the purposes recommended and may reduce or reject any amount recommended in the annual budget, but except on recommendation of the city manager, shall not increase any amount in or the total of the annual budget, nor add thereto any amount for a purpose not included therein, except as provided in section thirty-three of chapter forty-four of the General Laws. Except as otherwise permitted by law or by this charter, all amounts appropriated by the city council, as provided in this section, shall be for the purposes specified. In setting up an appropriation order or orders based on the annual budget, the city council shall use, so far as possible, the same classifications required for the annual budget. If the city council fails to take action with respect to any amount recommended in the annual budget, either by approving, reducing or rejecting the same, within forty-five days after its receipt of the budget, such amount shall, without any action by the city council, become a part of the appropriations for the year, and shall be available for the purposes specified.

**(c) Failure to submit budget recommendations:**

If the city manager shall fail to submit the annual budget to the city council within the period prescribed by general law, the city council shall within thirty days upon its own initiative prepare the annual budget, as far as apt. Within fifteen days after such preparation of the annual budget, the city council shall proceed to act by voting thereon and all amounts so voted shall thereupon be valid appropriations for the purposes stated therein to the same extent as though based upon a city manager's annual budget, but subject, however, such requirements, if any, as may be imposed by law. If the city council fails to take action with respect to any amount recommended in the annual budget, either by approving, reducing, or rejecting the same, within fifteen days after such preparation, such amount shall, without further action by the city council, become a part of the appropriations for the year, and be available for the purposes specified.

**§ 5-3. SUPPLEMENTARY APPROPRIATIONS**

(a) Nothing in this section shall prevent the city council, acting upon the written recommendation of the city manager, from voting appropriations, not in excess of the amount so recommended, either prior or subsequent to the passage of the annual budget.

(b) In case of the failure of the city manager to transmit to the city council a written recommendation for an appropriation for any purpose not included in the annual budget, which is deemed necessary by the city council, after having been so requested by majority vote thereof, the city council, after the expiration of seven days from such vote, upon its own initiative may make such appropriation by a vote of at least two thirds of its members, and shall in all cases clearly specify the amount to be expended for each particular purpose, but no appropriation may be voted hereunder so as to fix specific salaries of employees under the direction of boards elected by the people, other than the city council.

#### **§ 5-4. TRANSFER OF APPROPRIATIONS**

On recommendation of the city manager, the city council may, by majority vote, transfer any amount appropriated for the use of any department to another appropriation to the same department, but no transfer shall be made of any amount appropriated for the use of any department to the appropriation for any other department except by a two-thirds vote of the city council on recommendation of the city manager and with the written approval of the amount of such transfer by the department having control of the appropriation from which the transfer is proposed to be made. No approval other than that expressly provided herein shall be required for any transfer under the provisions of this section.

#### **§ 5-5. CAPITAL OUTLAY PROGRAM**

##### **(a) Submission:**

The city manager shall prepare and submit to the city council a five year capital outlay program at least three months prior to the final date for submission of a proposed annual operating budget.

##### **(b) Contents:**

(1) The capital outlay program shall include:

(A) A clear general summary of its contents;

(B) A listing of all capital expenditures proposed to be made during the five fiscal years next ensuing, with appropriate financial and other details concerning each such expenditure;

(C) Cost estimates, proposed methods of financing, and a time schedule for each such expenditure;

(D) The estimated annual cost of operating or maintaining any facilities to be acquired or constructed.

(2) The above information shall be revised and extended, annually. The foregoing shall not prevent the city, upon recommendation of the city manager and with the approval, by majority vote, of the city council, from adopting additional classifications.

#### **§ 5-6. PURCHASE AND TAKING OF LAND**

At the request of any department, and with the approval of the city manager and the city council, the city council may, in the name of the city, purchase, or take by eminent domain under chapter seventy-nine of the General Laws, any land within the city limits for any municipal purpose, and without the request of any department, but with like approval, the city council may, in the name of the city, purchase or take by eminent domain under said chapter seventy-nine, any land within the city limits for the purpose of conveying the same, with or without consideration, to the commonwealth for the use of a regional community college. Whenever the price proposed to be paid for land for any municipal purpose is more than twenty-five percent higher than its average assessed valuation during the previous three years, the land shall not be purchased but shall be taken as aforesaid. No land shall be taken or purchased until an appropriation by loan or otherwise for the general purpose for which land is needed has been made by the city council by a two-thirds vote of all its members; nor shall a price be paid in excess of the appropriation, unless a larger sum is awarded by a court of competent jurisdiction. All proceedings in the taking of land shall be under the advice of the law department of the city.

#### **§ 5-7. CITY MANAGER TO APPROVE CONTRACTS**

(a) All contracts made by any city agency where the amount involved is two thousand dollars or more shall be in writing, and no such contract shall be deemed to have been made or executed until the approval of the city manager and also of the officer or the head of the department or of the chair of the board, as the case may be, making the contract is affixed thereto. Any contract made as aforesaid may be required to be accompanied by a bond with sureties satisfactory to the board or official having the matter in charge, or by a deposit of money, certified check or other security for the faithful performance thereof, and such bonds or other securities shall be deposited with the city treasurer until the contract has been carried out in all respects; and no such contract shall be altered except by a written agreement of the contractor, the sureties on his/her bond, if any, and the officer, department or board, as the case may be, making the contract, with the approval of the city manager, affixed thereto. Any cash deposit or check payable to the city received as security for performance under this section may be deposited by said treasurer in any bank or trust company under a separate account to be known as a performance deposit account.

(b) The provisions of this section shall be deemed to have been complied with on all purchases made under the provisions of sections twenty-two A and twenty-two B of chapter seven of the General Laws when one municipality acting on behalf of other municipalities complies with the provisions of this section, or when purchases are made from a vendor holding a contract with the commonwealth for the item or items being purchased.

**ARTICLE SIX**

**REORGANIZATION OF CITY AGENCIES**

**§ 6-1. REORGANIZATION OF CITY AGENCIES**

**(a) Submission:**

The city manager may from time to time prepare and submit to the city council reorganization plans which may, subject to applicable provisions of the general laws and this charter, reorganize, consolidate or abolish any city agency, in whole or in part, or establish new city agencies, as he/she deems necessary or expedient. Any such reorganization plan shall be accompanied by an explanatory message when submitted.

**(b) City council action:**

Every such reorganization plan shall upon receipt by the city clerk be referred to an appropriate committee of the city council which shall, not more than thirty days later, hold a public hearing on the matter and shall, within ten days following such hearing, report either that it approves or that it disapproves of the plan. A reorganization plan shall become effective ninety days after the date it is received by the city council unless the city council has prior to that date voted to disapprove the reorganization plan, or unless a later effective date is specified in the plan. A reorganization plan presented by the city manager to the city council under this section shall not be amended by it, but shall either be approved or rejected as submitted.

**(c) Publication:**

A current record of any reorganization plan adopted under this article shall be kept on file in the office of the city clerk and copies of all such plans shall be included as an appendix in any publication of the ordinances of the city.

ARTICLE SEVEN

NOMINATIONS, ELECTIONS, INITIATIVE, AND REFERENDUM

- § 7-1. BOARD OF ELECTION COMMISSIONERS
- § 7-2. GENERAL ELECTIONS
- § 7-3. NON-PARTISAN ELECTIONS
- § 7-4. PRELIMINARY ELECTIONS
- § 7-5. BALLOT POSITION, INCUMBENTS
- § 7-6. DISTRICTS
- § 7-7. APPLICATION OF GENERAL LAWS
- § 7-8. INITIATIVE PETITIONS
- § 7-9. CITIZEN REFERENDUM PROCEDURES
- § 7-10. INELIGIBLE MEASURES
- § 7-11. SUBMISSION OF OTHER MATTERS TO VOTERS
- § 7-12. CONFLICTING PROVISIONS

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§ 7-1. BOARD OF ELECTION COMMISSIONERS

(a) **Composition:**

The board of election commissioners shall consist of five members, of whom two shall always represent each one of the two leading political parties, as defined in section one of chapter fifty of the General Laws; and one person who shall not represent either of said political parties. One member shall reside in each of the five districts created for the election of city councilors in accordance with § 7-6 of this charter.

(b) **Appointment, term of office:**

The city manager, subject to approval, by majority vote of the city council, shall appoint the members of the board of election commissioners in accordance with paragraph (a). Appointment of the two members representing the two leading political parties shall be made from a list to be submitted by the city committee of the political party from the members of which the position is to be filled, containing the names of three enrolled members of such party resident in the city and meeting the requirements of paragraph (a), selected by a majority vote at a duly called meeting, at which a quorum is present of such

committee; and every member of said board shall serve until the expiration of his/her term and until his/her successor has qualified; provided, however, that if the chair of the city committee has not submitted such list to the city manager within forty-five days after notification to said chair by certified mail, the city manager shall make such appointment without reference to said list. Such appointments shall be for a term of four years beginning April first, except that any appointment to fill a vacancy shall be for the unexpired term and shall be filled in the same manner as aforesaid.

**(c) Organization:**

The board shall organize annually in the month of April by the choice of a chair and a secretary. Where the members are unable to agree upon a chair and a secretary, such officers shall be designated by the city manager. The secretary shall keep a full and accurate record of the proceedings of the board and shall perform such other duties as the board may require.

**(d) Power and duties:**

(1) All the powers, rights, privileges, liabilities and duties relating to caucuses, primaries and elections, by law vested in and imposed upon mayors, city managers, boards of alderman, selectman, city or town clerks and board of registrars of voters, except the power and duty of giving notice of elections and fixing the days and hours of holding the same, shall be vested in and performed by the board of election commissioners.

(2) The board shall have such other powers and duties as provided under section sixteen A of chapter fifty-one of the General Laws, or otherwise prescribed to said board by general law.

(3) The board may recommend such assistant commissioners and such assistants as it deems necessary; the two leading political parties shall be equally represented with respect to said appointments. Said assistant commissioners shall have such powers and perform such duties as the board may require. Persons appointed to serve temporarily as assistant commissioners or as temporary assistant commissioners, shall not be subject to chapter thirty-one.

**(e) Compensation:**

The members of the board of election commissioners shall receive such compensation for their services as the city manager and city council may determine.

**§ 7-2. GENERAL ELECTIONS**

(a) The regular municipal election shall be held on the first Tuesday following the first Monday in November in each odd numbered year.

(b) The city manager and city council may fix the date of the preliminary election and may fix the time for filing nomination papers and for certification of the names thereon. Any action taken by the city manager and city council fixing any date as authorized by this section shall be taken not later than the sixtieth day prior to the date otherwise provided by general or special law, and if not so fixed, general or special law shall otherwise apply thereto.

(c) Notice of such action shall be published in one or more local newspapers, if any, or posted in at least five public places, including the city bulletin board, within the city.

**§ 7-3. NON-PARTISAN ELECTIONS**

All elections for city offices shall be non-partisan and election ballots shall be printed without any party mark, emblem, or other designation whatsoever.

**§ 7-4. PRELIMINARY ELECTIONS**

**(a) Statement and petition of candidate for nomination:**

(1) There shall not be printed on the official ballot for use at such preliminary election the name of any candidate for nomination at such election, unless he/she shall have filed, within the time period required, with the board of election commissioners a statement in writing of his/her candidacy, and with it a petition signed by the voters as required by paragraph (c); said statement and petition shall be in substantially the following form:

**Statement of Candidate**

**Form of Statement** - I ( ), on oath declare that I reside at (number if any) on (name of street) in the city of Worcester; that I am a voter therein, qualified to vote for a candidate for the office of (name of office) for (state the term) to be voted for at the preliminary election to be held on Tuesday, the day of , nineteen hundred and , and I request that my name be printed as such candidate on the official ballot for use at said preliminary election.

(signed)

Commonwealth of Massachusetts  
SS.

Subscribed and sworn to on this day of ,  
nineteen hundred and , before me.

(signed)

Justice of the Peace or  
(Notary Public)

**Petition Accompanying Statement of Candidate**

**Form of Petition** - Whereas (name of candidate) is a candidate for nomination for the office of (state the office) for (state the term), we, the undersigned, voters of the city of Worcester, duly qualified to vote for a candidate for said office, do hereby request that the name of said (name of candidate) as a candidate

for nomination for said office be printed on the official ballot to be used at the preliminary election to be held on the Tuesday of \_\_\_\_\_, nineteen hundred and \_\_\_\_\_. We further state that we believe him/her to be of good moral character and qualified to perform the duties of the office.

(2) No acceptance by the candidate for nomination named in the said petition shall be necessary to its validity or its filing, and the petition, which may be on one or more papers, need not be sworn to.

**(b) Signature requirements:**

The number of required signatures of voters to appear on the petition accompanying the statement of a candidate for election to the office of councillor at-large or school committee member shall be not less than three hundred. The number of certified signatures of voters from the district from which nomination is sought, required to appear on the petition accompanying the statement of a candidate for election to the office of district councillor, shall be not less than one hundred.

**(c) List of candidates, official ballots:**

(1) On the first day, other than Sunday or a legal holiday, following the expiration of the time for filing the above described statement and petition, the board of election commissioners shall post on the city bulletin board, the names and residences of the candidates for nomination who have duly qualified as candidates for nomination, as they are to appear on the official ballots to be used at the preliminary election, except as to the order of the names. The board of election commissioners shall cause the ballots which shall contain said names, in their order as drawn by said commissioners, and no others, with a designation of residence, and of the office and term of service, to be printed, and the ballots so printed shall be official and no others shall be used at the preliminary election.

(2) Blank spaces shall be left at the end of each list of candidates for nomination for the different offices equal to the number to be nominated therefor, in which the voter may insert the name of any person not printed on the ballot for whom he/she desires to vote for nomination for such office. There shall be printed on said ballots such directions as will aid the voter, as, for example: "vote for one", "vote for two" and the like, and the ballots shall be headed as follows:

**Official Preliminary Ballot**

Candidates for nomination for the offices of ( )  
in the City of \_\_\_\_\_, at a preliminary election to be held  
on the \_\_\_\_\_ day of \_\_\_\_\_ in the year nineteen hundred and \_\_\_\_\_. (The  
heading shall be varied in accordance with the offices for which  
nominations are to be made).

**(d) Election results:**

The board of election commissioners shall, immediately upon closing of the polls at preliminary elections, count the ballots and ascertain the number of votes cast in the several voting places for each candidate, canvass said

returns, and shall forthwith determine the result thereof, insert the same in one or more local newspapers and post the same on the city bulletin board.

**(e) Determination of candidates:**

The two persons receiving at a preliminary election the highest number of votes for nomination for each office shall be the sole candidates for that office whose names shall be printed on the official ballots to be used at the regular municipal election at which such office is to be voted upon, and no acceptance of a nomination shall be necessary to its validity; provided, however, that a person nominated at a preliminary election may withdraw his/her name from nomination by a request signed and duly acknowledge by him/her and filed with the election commission within five business days succeeding five o'clock in the afternoon of the day of holding such preliminary election. Such nominee shall be replaced by the candidate with the next highest number of votes in said preliminary, unless otherwise provided herein.

**(f) Condition making preliminary unnecessary:**

If at the expiration of time for filing statements of candidates to be voted upon at any preliminary election not more than twice as many such statements have been filed with the board of election commissioners for an office as candidates are to be elected to such office, the candidates whose statements have been filed with the board of election commissioners shall be deemed to have been nominated to such office, and their names shall be voted upon for such office at the succeeding regular or special election, and the board of election commissioners shall not print said names on the ballot to be used at such preliminary election and no other nomination to such office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used in any particular district or districts of the city, no preliminary election shall be held in such district or districts.

**§ 7-5. BALLOT POSITION, INCUMBENTS**

The names of all candidates shall appear on the official ballot in the order in which they are drawn by lot. Each such drawing shall be conducted by the board of election commissioners. Each candidate or his/her duly authorized representative shall have an opportunity to be present at such drawing. After the name of each candidate for office who is an elected incumbent thereof, shall be added the words "candidate for re-election".

**§ 7-6. DISTRICTS**

**(a) Number, requirements:**

The board of election commissioners shall divide the city into five districts for the purpose of electing district councilors under Article 2 of this charter. Each such district shall be compact and shall contain, as nearly as may be, an equal number of inhabitants, shall be composed of contiguous existing precincts, and shall be drawn with a view toward preserving the integrity of existing neighborhoods.

**(b) Revision of district lines:**

The city clerk shall immediately provide notice to the board of election commissioners of the results of each state census and division of the city into wards and precincts as required under chapter fifty-four of the General Laws. The board of election commissioners shall review the districts for conformance with the requirements of paragraph (a) and shall redraw said districts, if necessary, after public hearing, within sixty days of receiving notice from the city clerk. Revision of district lines and new wards and precincts shall take effect simultaneously.

#### **§ 7-7. APPLICATION OF GENERAL LAWS**

Except as expressly provided in this charter and authorized by law, all city elections shall be governed by the general laws relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary, general, and special elections, the submission of charters, charter amendments and other propositions to the voters, the counting of votes, the recounting of votes, and the determination of results.

#### **§ 7-8. INITIATIVE PETITIONS**

(first para.) A petition conforming to the requirements hereinafter provided and requesting the city council to pass a measure, except an order granted under section seventy or seventy-one of chapter one hundred and sixty-four or chapter one hundred and sixty-six of the General Laws, or requesting the school committee to pass a measure, therein set forth or designated, shall be termed an initiative petition and shall be acted upon as hereinafter provided.

##### **(a) Requirements, commencement:**

The city council or school committee shall take action in accordance with paragraph (b), on any initiative petition filed in accordance with the requirements as set forth in this paragraph.

**(1) Signatures** - Initiative petitions shall contain signatures of voters equal to at least fifteen percent of the total number of voters in the city. Signatures to initiative petitions need not all be on one paper. All such papers pertaining to any one measure shall be fastened together and shall be filed in the office of the city clerk as one instrument, with the endorsement thereon of the names and addresses of three persons designated as filing the same. Accompanying each signature to the petition shall be stated the place of residence of the signer, giving the street and number, if any.

**(2) Certification** - Within five days after the filing of a petition, the board of election commissioners shall ascertain by what number of voters the petition is signed and what percentage that number is of the total number of voters, and shall attach thereto their certificate showing the results of such examination. When such certificate has been so transmitted, a petition shall be deemed to be valid unless written objections are made thereto by a voter within forty-eight hours after such certification by filing such objections with the city council or the school committee, and a copy thereof with the board of election commissioners. A copy of the objections so filed shall forthwith be transmitted to the state ballot law commission which shall hold a public hearing on such objections, shall render a decision on the matter referred to it within fourteen days after the objections were filed and transmit a copy of its decision to the city council or the school committee.

**(b) Action by city council or school committee if initiative petition is fully signed; referendum**

If any initiative petition, meeting the requirements of paragraph (a) is filed, the city council or school committee shall, within twenty days after the date of the certificate of the board of election commissioners to that effect:

(1) Pass said measure without alteration, subject to the referendum vote provided by this charter; or

(2) The city council shall call a special election to be held on a Tuesday fixed by it, not less than thirty nor more than forty-five days after the date of the certificate hereinbefore mentioned, and shall submit the proposed measure without alteration to the voters at that election; provided, that if any city election is otherwise to occur within ninety days after the date of said certificate, the city council may, at its discretion, omit calling the special election and submit the proposed measure to the voters at such approaching election.

**(c) Proceedings if petition not fully signed:**

If an initiative petition is signed by voters equal in number to at least eight percent but less than fifteen percent of the total number of voters, and said measure is not passed without alteration, within twenty days by the city council or the school committee as provided in the preceding paragraph, such proposed measure without alteration, shall be submitted by the city council to the voters at the next regular municipal election.

**(d) Question on the ballot:**

The ballots used when voting upon a proposed measure, or a measure or part thereof protested against hereunder, shall state the nature of the measure in terms sufficient to show the substance thereof.

**(e) Passage, date of effect:**

A proposed measure or a measure or part thereof protested against hereunder, shall become effective if it shall be approved by the voters equal in number to one third of the total number of voters and also by a majority of the voters voting on such measure, but not otherwise.

**§ 7-9. CITIZEN REFERENDUM PROCEDURES**

**(a) Petition, effect on final vote:**

If, within twenty days after the final passage of any measure, except a revenue loan order, by the city council or by the school committee, a petition signed by the voters, equal in number to at least twelve percent of the total number of voters, and addressed to the city council or to the school committee, as the case may be, protesting against such measure or any part thereof taking effect, is filed with the city clerk, the same shall thereupon and thereby be suspended from taking effect; and the city council or the school committee, as the case may be, shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded, the city council shall submit the same, by the method herein provided, to the voters either at

the next regular city election, or at a special election which may, in the city council's discretion, be called for that purpose, and such measure or part thereof shall forthwith become null and void unless a majority of the voters voting on the same at such election, vote in favor thereof.

**(b) Certain initiative provisions to apply:**

The petition described in this section shall be termed a referendum petition and § 7-8, with the exception of the last paragraph 7-8(a)(2), shall apply to the procedure in respect thereto, except that the words "measure or part thereof protested against" shall, for this purpose, be understood to replace "measure" in said section wherever it may occur, and "referendum" shall be understood to replace the word "initiative" in said section.

**§ 7-10. INELIGIBLE MEASURES**

None of the following shall be subject to the initiative or the referendum procedures:

- (1) proceedings relating to the internal organization or operation of the city council or the school committee;
- (2) an emergency measure adopted in conformity with the charter;
- (3) the city budget or the school committee budget as a whole;
- (4) revenue loan orders;
- (5) any appropriation for the payment of the city's debt or debt service;
- (6) an appropriation of funds to implement a collective bargaining agreement;
- (7) proceedings relative to the election, appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action;
- (8) any proceedings repealing or rescinding a measure or part thereof which is protested by referendum procedures; and
- (9) any proceedings providing for the submission or referral of any measure to the voters at an election.

**§ 7-11. SUBMISSION OF OTHER MATTERS TO VOTERS**

The city council may on its own motion, and shall, upon the request of the school committee, if a measure originates with that committee and pertains to the affairs under its administration, submit to the voters for adoption or rejection at a general or special city election any proposed measure, or a proposition for the repeal or amendment of any measure, in the same manner and with the same force and effect as are hereby provided for submission on petition.

**§ 7-12. CONFLICTING PROVISIONS**

If two or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect.

**ARTICLE EIGHT**

**NEIGHBORHOOD AREA COUNCILS**

- § 8-1. PURPOSE
- § 8-2. ESTABLISHMENT
- § 8-3. PETITION TO CITY COUNCIL
- § 8-4. BOUNDARY CHANGES
- § 8-5. CRITERIA TO SET BOUNDARIES
- § 8-6. DISSOLUTION
- § 8-7. ELECTION OF MEMBERS
- § 8-8. POWERS & FUNCTIONS
- § 8-9. COMPENSATION, MEETINGS, BY-LAWS, QUORUM
- § 8-10. ANNUAL REPORT
- § 8-11. FINANCIAL RECORDS
- § 8-12. RELATIONSHIP TO CITY MANAGER

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**§ 8-1. PURPOSE**

It is the purpose of this article to encourage citizen involvement in government at the neighborhood level by permitting limited self-government through the establishment of neighborhood area councils as legal entities of the city government.

**§ 8-2. ESTABLISHMENT**

The city council may establish one or more neighborhood area councils to provide advisory and self-help functions that the neighborhood area council is authorized to undertake.

**§ 8-3. PETITION TO CITY COUNCIL**

(a) A petition may be submitted to the city council requesting the establishment of a neighborhood area council to advise the city council on neighborhood affairs and to act on its behalf when specifically authorized to do so by majority vote of the city council. Such petition must be signed by

twenty percent of the voters residing in such area. The petition shall describe the territorial boundaries of the proposed neighborhood council area, shall specify the advisory and self-help functions to be provided, and shall indicate the size of the neighborhood area council.

(b) Upon receipt of the petition and certification of the signatures thereon by the board of election commissioners, the city council shall, within thirty days following receipt of such certification hold a public hearing on the question of whether or not the requested neighborhood area council should be established. The hearing may be adjourned from time to time but shall be completed within sixty days of its commencement.

(c) Within thirty days following the public hearing, the city council shall, by resolution, approve or disapprove the establishment of the requested neighborhood area council.

(d) A resolution approving the creation of the neighborhood area council may contain amendments or modifications of the boundaries of the neighborhood council area, functions or size of the neighborhood area council, as set forth in the petition.

#### **§ 8-4. BOUNDARY CHANGES**

Pursuant to a request from a neighborhood area council, accompanied by a petition signed by at least twenty percent of the voters residing in the area to be added or deleted, the city council may enlarge, diminish, or otherwise alter the boundaries of any existing neighborhood area council in accordance with the procedures set forth in § 8-3(b),(c), and (d).

#### **§ 8-5. CRITERIA TO SET BOUNDARIES**

In establishing neighborhood boundaries and determining those functions to be undertaken by a neighborhood area council, the city council shall study and take into consideration, but shall not be limited to, the following criteria:

(1) The extent to which the area constitutes a neighborhood with common concerns and a capacity for local neighborhood initiative, leadership, and decision-making with respect to city government.

(2) City agency authority and resources which may appropriately be transferred or shared with the neighborhood council.

(3) Population density, distribution, and growth within a neighborhood area council to assure that its boundaries reflect the most effective territory for local participation and control.

(4) Citizen access to, control of, and participation in neighborhood area council activities and functions.

#### **§ 8-6. DISSOLUTION**

(a) The city council may, after a public hearing, dissolve a neighborhood area council on the initiative of the city council or pursuant to a petition signed by at least twenty percent of the voters living within the neighborhood area.

(b) The city council shall give notice, in a local newspaper of general circulation in that neighborhood area, of its intention to hold a public hearing on a proposed dissolution. Such notice shall be given not less than fourteen days before the date of the public hearing.

#### **§ 8-7. ELECTION OF MEMBERS**

(a) A neighborhood area council shall consist of five to nine members. The term of office of each member shall be two years and he/she shall serve until his/her successor is qualified.

(b) Neighborhood area council members shall be elected at-large by and from voters residing in the neighborhood council area at the time of the election. The city council shall determine the time and manner of holding such elections. The district councilors who represent any portion of the area included in a neighborhood council area shall serve, ex-officio and with no power to vote, as members of the neighborhood area council.

(c) The director of a neighborhood center, or his/her delegate, whose center is a duly organized non-profit corporation which provides human services in the neighborhood area, or a portion thereof, shall be a member of said neighborhood area council with full voting power.

(d) The city manager may appoint an additional ex-officio member, with voting power, if such appointment is needed to satisfy the city's commitment to open, fair and equitable practices in city government. Such appointment shall be subject to approval, by majority vote, of the city council.

(e) A vacancy on a neighborhood area council shall be filled by the candidate for neighborhood councillor on that neighborhood area council who received the largest number of votes for said office, without being elected, provided that such individual remains eligible and willing to serve. The board of election commissioners shall certify such candidate to the office of neighborhood area councillor for the then unexpired term. If there be no such candidate, the vacancy shall be filled by the neighborhood area council who shall elect, by majority vote, a voter to serve for the balance of the unexpired term.

#### **§ 8-8. POWERS AND FUNCTIONS**

A neighborhood area council may exercise any power and perform any functions within the neighborhood area expressly authorized by the city council, which may include but shall not be limited to:

(1) Advisory or delegated substantive authority, or both, with respect to such programs as community action, urban renewal, relocation, public housing, planning and zoning actions, other physical development programs, crime prevention and juvenile delinquency programs, health services, code inspection, recreation, education, and manpower training. Nothing contained herein shall be construed to authorize the city council to delegate to any neighborhood area council any substantive authority with regard to zoning or the operation of private non-profit neighborhood centers.

(2) Self-help projects, such as supplemental refuse collection, beautification, minor street and sidewalk repair, street fairs and festivals, cultural activities, recreation, and housing rehabilitation and sale.

(3) Acceptance of funds from public sources, but not including city, private sources, including public subscriptions; and expenditure of monies to meet overhead cost of neighborhood area council administration.

**§ 8-9. COMPENSATION, MEETINGS, BY-LAWS, QUORUM**

(a) Members of a neighborhood area council shall receive no compensation but may receive reimbursement of actual and necessary travel and other expenses incurred in the performance of official duties.

(b) A neighborhood area council shall adopt rules providing for the conduct of its business and the selection of a presiding officer and other officers. Copies of all rules adopted by neighborhood area councils shall be made available to the public upon request.

(c) A majority of the voting members of a neighborhood area council shall constitute a quorum for the transaction of business. Each member entitled to vote shall have one vote.

**§ 8-10. ANNUAL REPORT**

Each neighborhood area council shall make an annual report of its activities to the city council which shall be made available to the public. It shall also hold an annual meeting in the neighborhood area at which it will report on its activities and make copies of said annual report available.

**§ 8-11. FINANCIAL RECORDS**

Each neighborhood area council shall maintain complete financial records which shall be subject to audit by the city.

**§ 8-12. RELATIONSHIP TO CITY MANAGER**

The city manager shall, at the request of the neighborhood area council, assign a representative to attend the meetings of the neighborhood area council and act as liaison between the neighborhood area council and the city manager.

**ARTICLE NINE**

**GENERAL PROVISIONS**

- § 9-1. CHARTER CHANGES**
- § 9-2. SEVERABILITY**
- § 9-3. SPECIFIC PROVISION TO PREVAIL**
- § 9-4. RULES AND REGULATIONS**
- § 9-5. NUMBER**
- § 9-6. REFERENCE TO GENERAL LAWS**
- § 9-7. CERTIFICATE OF ELECTION OR APPOINTMENT**

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**§ 9-1 CHARTER CHANGES**

This charter may be revised or amended in accordance with the procedures made available under the constitution of the commonwealth or pursuant to any applicable provision of the general laws.

**§ 9-2 SEVERABILITY**

The provisions of this charter are severable. If any provision of this charter is held invalid, the other provisions shall not be affected thereby. If the application of this charter, or any of its provisions, to any person or circumstance is held invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

**§ 9-3. SPECIFIC PROVISION TO PREVAIL**

To the extent that any specific provision of this charter may conflict with any other provision expressed in general terms herein the specific provision shall prevail.

**§ 9-4. RULES AND REGULATIONS**

A copy of all rules and regulations adopted by city agencies shall be placed on file in the office of the city clerk and shall be made available for review by any person who requests such information at any reasonable time. No rule or regulation adopted by any city agency shall become effective until five days following the date it is so filed.

**§ 9-5. NUMBER**

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular.

**§ 9-6. REFERENCE TO GENERAL LAWS**

All references to the General Laws contained in this charter refer to the General Laws of the commonwealth of Massachusetts and are intended to refer to and to include any amendments or revisions of such chapters or sections, or to the corresponding chapters and sections of any recodification, or revision of such statutes enacted or adopted subsequent to the adoption of this charter.

**§ 9-7. CERTIFICATE OR ELECTION OR APPOINTMENT**

Every person who is elected, including those elected by the city council, or appointed to an office of the city shall receive a certificate of such election or appointment from the city clerk. Except as otherwise provided by law, before performing any act under an appointment or election, all such persons shall take and subscribe to an oath of office and be sworn to the faithful performance of their duties.

**ARTICLE TEN**

**TRANSITIONAL PROVISIONS**

- § 10-1. CONTINUATION OF EXISTING LAWS**
  - § 10-2. CONTINUATION OF GOVERNMENT & ADMINISTRATION**
  - § 10-3. TRANSFER OF RECORDS & PROPERTY**
  - § 10-4. CONTINUATION OF PERSONNEL**
  - § 10-5. EFFECT ON OBLIGATIONS, TAXES**
  - § 10-6. CITY AGENCIES ESTABLISHED BY SPECIAL LAW**
  - § 10-7. EFFECTIVE DATE OF CHARTER**
  - § 10-8. HOME RULE PETITION**
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**§ 10-1. CONTINUATION OF EXISTING LAWS**

All General Laws previously accepted by the City, special laws, ordinances, resolutions, orders, and rules and regulations of or pertaining to the city that are in force when this charter takes effect, and not specifically or by implication repealed herein, shall continue in full force and effect until amended or repealed, or rescinded by due course of law, or until they expire by their own limitations.

**§ 10-2. CONTINUATION OF GOVERNMENT & ADMINISTRATION**

Until superseded under this charter, the organization of the city agencies and the powers and duties exercised by each such city agency, shall continue as established prior to the adoption of this charter.

**§ 10-3. TRANSFER OF RECORDS & PROPERTY**

All records, property, and equipment whatsoever of any city agency, or part thereof, the powers and duties of which are assigned in whole or in part to another city agency pursuant to this charter, shall be transferred forthwith to such agency when such agency shall have been established hereunder.

**§ 10-4. CONTINUATION OF PERSONNEL**

Any person holding a city office or a position in the administrative service of the city, or any person holding full-time employment under the city, shall retain such office, position or employment, and shall continue to perform the duties of such office, position or employment until provision shall have been made for the performance of those duties by another person or agency; provided, however, no person in the permanent full-time service of the city shall forfeit his/her pay grade, or time in service of the city. All such persons shall be retained in a capacity as similar to the capacity in which

they were serving at the time this charter becomes effective, as is practicable.

**§ 10-5. EFFECT ON OBLIGATIONS, TAXES**

All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by or to the city before the effective date of this charter, and all taxes, special assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the city, shall be enforced and collected, and all writs, prosecutions, actions, and causes of action, except as otherwise provided herein, shall continue without abatement and remain unaffected by this charter; and no legal act done by or in favor of the city shall be rendered invalid by reason of the adoption of this charter.

**§ 10-6. CITY AGENCIES ESTABLISHED BY SPECIAL LAW**

**(a) Special laws retained:**

Nothing in this charter shall be construed so as to alter in any manner the provisions of certain special laws establishing and governing the operation of:

**(1) Worcester City Hospital** - In particular, the provisions of chapter two-hundred and sixty-six of the acts of nineteen hundred and fifty-three and chapter three-hundred and eighty-six of the acts of nineteen hundred and eighty-four;

**(2) Civic Center Commission** - In particular, the provisions of chapter two-hundred and sixteen of the acts of nineteen hundred and seventy-six;

**(3) Off-Street Parking Board** - In particular, the provisions of chapter three-hundred and sixty-five of the acts of nineteen hundred and fifty-five.

**(4) Board of Trustees of the Grand Army of the Republic Memorial Hall** - In particular, the provisions of chapter two-hundred and eighty-two of the acts of nineteen hundred and thirty.

Each of the aforesaid entities shall continue to operate under the provisions of law heretofore applicable to it, and its relationship with the several city agencies, the city manager, and the city council shall be unaffected by the adoption of this charter.

**(b) Special laws repealed:**

Certain city agencies previously established and governed by special law are hereby continued as city agencies subject to the provisions of article six of this charter for the purposes of organization and reorganization. These city agencies include the board of health and the commissioner of public health established by chapter one-hundred and eighty-one of the acts of nineteen hundred and fifty-three, the commissioner of public works established by chapter two-hundred and ten of the acts of nineteen hundred and thirty-nine, and the parks and recreation commission established by chapter two-hundred and four of the special acts of nineteen hundred and seventeen (but the powers contained in chapter one hundred and eighteen of the acts of nineteen hundred and seventy-five are specifically preserved). The special laws establishing

these agencies are hereby repealed but the provisions of such special laws are retained and shall have the force of city ordinances which may be amended, revised, or repealed in accordance with the power to reorganize city agencies contained in article six of this charter.

**§ 10-7. EFFECTIVE DATE OF CHARTER AND CERTAIN PROVISIONS**

(a) This charter shall become effective upon its approval by the voters pursuant to the procedures available under the constitution of the commonwealth or under the general laws, and in accordance with the following schedule:

(1) This charter, in its entirety, unless otherwise provided herein, shall take effect on January 1, 1987.

(2) Within ninety days of the adoption of this charter by the voters, each city committee of the two leading political parties shall submit the list required by § 7-1(b) to the city manager for the purpose of appointing the board of election commissioners. Said list shall comply with the requirements of § 7-1(a) except that the names may be selected from the city at large, giving consideration to the geographical distribution of the nominees within the city. Within sixty days of receipt of said list, the city manager shall appoint the board of election commissioners in accordance with § 7-1(b). In appointing this board of election commissioners, the city manager shall not be restricted by the district residency requirements contained in § 7-1(a), but shall give consideration to the geographical distribution of the members within the city.

(b) Once the board of election commissioners shall have organized, the city clerk shall send an official notice informing said board of the results of the most recent state census and division of the city by the city council into wards and precincts as required under section one of chapter fifty-four of the General Laws. Within one hundred and twenty days following receipt of such notice, the board of election commissioners shall, after public hearing, divide the city into five districts for the purpose of electing district councilors under Article 2 of this charter. Each such district shall be compact and shall contain, as nearly as may be, an equal number of inhabitants, shall be composed of contiguous existing precincts, and shall be drawn with a view toward preserving the integrity of existing neighborhoods.

**§ 10-8. HOME RULE PETITION**

Immediately following the election at which this charter is adopted, the city clerk shall transmit to the members of the general court who represent the city, a certificate stating that the voters have approved of the filing of the following petition to enact a special law:

**AN ACT EXEMPTING CERTAIN POSITIONS IN THE CITY OF WORCESTER FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.\***

Be it enacted by the Senate and House of Representatives in the General Court assembled, and by the authority of the same as follows.

§ 1. Notwithstanding any provision of law to the contrary, the positions of city treasurer and city clerk in the city of Worcester

shall be exempt from the provisions of chapter thirty-one of the General Laws.

§ 2. The provisions of section one shall not impair the civil service status of any incumbent holding permanent status in said positions on the effective date of this act.

\* This petition was enacted as chapter 178 of the acts of 1986.

**REVISED ORDINANCES OF THE CITY OF WORCESTER**

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- A. Chapters 1, 2 & 3 - Organizational
- B. Chapters 4, 5, 6 & 7 - Environmental
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- D. Chapters 12, 13 & 14 - Public Streets
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**PART II. ORGANIZATION OF CITY AGENCIES**

**PART III. APPENDIX**

- A. Special Acts Applicable to the City of Worcester
- B. Statutes Accepted by the City of Worcester
- C. Salary Ordinance (published separately)
- D. Zoning Ordinance (published separately)
- E. Fire Prevention Code (published separately)
- F. Charter of the City of Worcester
- G. Amendments to Revised Ordinances of 1996

- the end -

APPENDIX G - AMENDMENTS TO THE REVISED ORDINANCES OF 1996

**Amendment 6930**

AN AMENDMENT TO THE ORGANIZATION PLAN FOR THE  
WORCESTER AIRPORT DEPARTMENT RELATIVE  
TO THE NAME OF THE AIRPORT DEPARTMENT

Be it ordained by the City Council of the city of Worcester, as follows:

1. Section 1 of Article Two of Part II of the Revised Ordinances is hereby amended by inserting the word "Regional" between "Worcester" and "Airport" such that the entire section reads as follows:

"Under authority of the General Laws, Chapter ninety, section fifty-one D, and Article Six of the Home Rule charter, there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Worcester Regional airport Department' (hereinafter "department")."

2. Section 2 of Article Two of Part II of the Revised Ordinances is hereby amended by inserting the word "Regional" between "Worcester" and "Airport" such that the entire section reads as follows:

"It shall be the function of the department to have care, custody and control of the aviation facilities of the city known as Worcester Regional Airport at James D. O'Brien Field."

In City Council April 2, 1996

Passed to be ordained by a yea and nay vote of Ten Yeas and One Nay.

A Copy. Attest:

David J. Rushford, Clerk

**David J. Rushford**  
City Clerk

**Amendment 6933**

AN ORDINANCE AMENDING CHAPTER EIGHT OF  
THE REVISED ORDINANCES OF 1996 RELATIVE TO  
THE SALE OF TOBACCO

Be it ordained by the city council of the city of Worcester, as follows:

Section three of chapter eight of the Revised Ordinances of 1996 is hereby amended by deleting said section in its entirety and inserting in lieu thereof the following new section:

**§ 3. Tobacco Control Ordinance**

(a) Declaration of Findings and Policy. There exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat; and at least one-half of all smokers begin smoking before the age of eighteen; and an estimated 3,000 minors begin smoking every day in the United States; and nicotine in tobacco has been found by the surgeon general to be a powerfully addictive drug; and despite state and local laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products continues to be a major problem; and a comprehensive city ordinance requiring proof of age in order to purchase tobacco products is necessary in order to restrict the access of minors to tobacco products in the interest of public health; now, therefore, it is the policy of the city of Worcester to discourage minors from experimenting with tobacco and to make tobacco products less accessible to minors.

(b) Definitions. For purposes of this section,

"commissioner" shall mean the commissioner of public health and code enforcement of the city of Worcester.

"licensed liquor establishment" shall mean any establishment which has been licensed to sell alcoholic beverages under chapter one hundred thirty-eight of the General Laws.

"minor" shall mean any individual who is under the age of eighteen.

"person" shall mean any individual, employer, employee, retail store manager, retail store owner, or the owner or operator of any establishment engaged in the sale of tobacco products.

"self service display" shall mean any display of tobacco products which is so located such that said products are accessible to customers without assistance from an employee or store personnel.

"tobacco products" shall mean cigarettes, cigars, chewing tobacco, pipe tobacco, snuff or tobacco in any of its forms.

"vending machine" shall mean any automated, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.

(c) Sales to Minors Prohibited

(1) No person shall sell, attempt to sell, or otherwise distribute or attempt to distribute a cigarette or other tobacco product to a minor.

(2) No person shall sell or permit the sale of tobacco products unless the location at which the tobacco products are available for purchase is posted with a notice at least six inches by eight inches in size which is clearly visible to anyone purchasing such products and which states:

Whoever sells a cigarette, chewing tobacco, snuff or any tobacco in any of its forms to any person under the age of eighteen or, not being his parent or guardian, who gives a cigarette, chewing tobacco, snuff or tobacco in any of its forms to any person under the age of eighteen shall be punished by a fine of not less than one hundred dollars for the first offense, not less than two hundred dollars for a second offense and not less than three hundred dollars for any third or subsequent offense.

Said notice must be printed in compliance with G.L. c. 270, §§ 6 & 7 and shall be available upon request from the commissioner.

(3) A person selling tobacco products shall request and examine identification from any purchaser suspected of being a minor, and in such cases, shall positively establish the age of the purchaser as eighteen years or older before allowing the purchase.

(d) Sale & Distribution of Tobacco Products Regulated

(1) No person in the business of selling or otherwise distributing cigarettes or other tobacco products for commercial purposes, or any agent or employee of such person, shall sell, attempt to sell, or distribute free of charge any number of individual or loose cigarettes or other tobacco products.

(2) No person shall sell or offer for sale any tobacco product by means of a self service display, unless said display is located on the main selling counter within ten feet of, and within full view of, the main sales register and which is supervised by store personnel at all times when the store is open to the public.

(3) No person shall sell, attempt to sell, or otherwise distribute cigarettes or other tobacco products in any building or facility owned or operated by the city.

(e) Tobacco Sales Permit

(1) No person, including those establishments which distribute tobacco products by means of vending machines, shall sell or otherwise distribute tobacco products within the city without a valid tobacco sales permit from the commissioner.

(2) The prohibition contained in subsection (e)(1) shall take effect on the sixty-first day after the effective date of this ordinance.

(3) The commissioner shall establish a procedure for the filing of applications for tobacco sales permits. The commissioner shall issue tobacco sales permits to any person or establishment only after the commissioner determines that the application demonstrates compliance with this ordinance and any rules or regulations the commissioner may adopt to implement this ordinance. The first tobacco sales permit issued to any one person or

establishment shall be an "initial" tobacco sales permit, which shall expire on the January first next after the date of issuance. Thereafter, any tobacco sales permit issued to the same person or establishment by the commissioner shall be an "annual" tobacco sales permit, which shall be valid for one calendar year beginning on January first and ending on December thirty-first. The fee for both initial and annual tobacco sales permits shall be determined by the commissioner.

(4) Every person or establishment holding a tobacco sales permit shall display such permit on the premises in a conspicuous place at the point of sale of the tobacco products.

(f) Tobacco Products Vending Machines

(1) No person shall distribute or sell tobacco products through the use of a vending machine without a valid tobacco sales permit issued under subsection (e) of this ordinance. Any person or establishment licensed to sell tobacco products under this ordinance shall locate all vending machines involved in the sale or distribution of tobacco products in such a manner so as to be under the direct observation and supervision of the person to whom the tobacco sales permit was issued, or an adult agent or employee of any such person or establishment. Unless otherwise provided for in subsection (3) of this section, each such vending machine shall be equipped with a switch by which the individual responsible for the observation and supervision of the machine shall, at all times, either remotely or otherwise, control the operation of the vending machine. No purchaser of tobacco products from any vending machine shall be able to obtain tobacco products from such machine without the contemporaneous operation of the switch by licensed person, or the agent or employee described in this subsection.

(2) No tobacco products vending machine shall be located within ten feet from any entrance or exit of any premises wherein the sale or distribution of tobacco products occurs. The provisions of subsection (f)(2) shall not apply to any licensed liquor establishments.

(3) No remote switch or device shall be required on any vending machine located in any licensed liquor establishment where at least seventy-five percent of the proceeds of the establishment result from the sale of alcoholic beverages and where the vending machine is located in a section of the establishment where minors are prohibited.

(g) Penalties & Enforcement

(1) Any person who violates the provisions of subsection (e)(1) of this ordinance shall be punished by a fine of one hundred dollars for each violation. Every day or part thereof in which a person engages in such conduct shall constitute a single and separate offense.

(2) Any person who violates any provision of this ordinance other than subsection (e)(1) shall be punished by a fine of one hundred dollars for the first offense, two hundred dollars for the second offense and three hundred dollars for the third and each subsequent offense. For each violation of any provision of this ordinance, other than subsection (e)(1), occurring on the premises governed by the tobacco sales permit, the tobacco permit holder shall be penalized with a fine according to the schedule stated in this subsection (g). Any employee of a tobacco sales permit holder who sells or attempts to sell, or distributes free, or attempts to distribute free, any tobacco product

to a minor, shall be penalized with a fine in accordance with the schedule stated in this subsection.

(3) Whenever the commissioner determines that a tobacco sales permit holder has committed three violations of this ordinance within any three hundred and sixty five day period, calculated from the date of the first violation, the commissioner shall suspend or revoke the tobacco sales permit granted pursuant to this ordinance. The commissioner shall provide notice to the permit holder of the intent to suspend or revoke a tobacco sales permit, which notice shall contain the reasons therefor and establish a time and date for a hearing before the commissioner, which date shall be no earlier than seven days after the date of said notice. The permit holder shall have an opportunity to be heard at such hearing and shall be notified of the decision of the commissioner, and the reasons therefor, in writing. All tobacco products shall be removed from the premises upon suspension or revocation of the tobacco sales permit. No person or establishment whose license to sell tobacco products has been suspended or revoked shall maintain any such tobacco products on the premises during the period of any suspension or after the revocation of the tobacco sales permit. Failure to remove such tobacco products shall constitute a separate violation of this section, with each day constituting a separate offense. A permit holder whose permit has been revoked may not apply for a new permit prior to the expiration of thirty days following the date of revocation.

In City Council April 20, 1996

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 6934**

AN ORDINANCE AMENDING CHAPTER 15 OF THE REVISED ORDINANCES  
OF 1996 RELATIVE TO THE NON-CRIMINAL DISPOSITION OF  
VIOLATIONS OF THE TOBACCO CONTROL ORDINANCE.

Be it ordained by the city council of the city of Worcester, as follows:

Section two of chapter fifteen of the Revised Ordinances of 1996 is hereby amended by deleting subsection (b)(xi) and (b)(xii) of said section in their entirety and inserting in lieu thereof the following new subsection (b)(xi) and (b)(xii):

(xi) sale of tobacco products without a tobacco sales permit  
- chapter eight, § 3(e)(1)

penalty: \$100.00  
enforcing person: commissioner of public  
health and code enforcement

(xii) violation of any provision of the tobacco control ordinance, chapter eight, S3, except subsection (e) (1)

penalty:  
first offense \$100.00  
second offense \$200.00  
third and each subsequent offense \$300.00  
enforcing person: commissioner of public  
health and code enforcement

In City Council April 30, 1996

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

**David J. Rushford**  
City Clerk

**Amendment 6935**

AN ORDINANCE AMENDING SECTION EIGHT OF CHAPTER TWO  
OF THE REVISED ORDINANCES OF 1996 SO AS TO REFLECT THE CHANGE  
MADE IN THE "Z" SALARY SCHEDULE BY THE MERIT PAY ORDINANCE.

Be it ordained by the city council of the city of Worcester, as follows:

Section eight of chapter two of the Revised Ordinances of 1996 is hereby amended by deleting in subsection (a) thereof the words "Z schedule" and inserting in lieu thereof the words "Z and DH schedules".

In City Council April 23, 1996  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
**David J. Rushford**  
City Clerk

**Amendment 6986**

AN ORDINANCE AMENDING CHAPTERS ELEVEN AND  
TWELVE OF THE REVISED ORDINANCES OF 1996  
CONCERNING ITINERANT MUSICIANS

WHEREAS the deferred operation of this ordinance would create a special emergency involving the health and safety of the people or their property, in particular the use of downtown streets during the "Olde Fashioned Worcester Shopping Nights" festival, therefore it is hereby declared to be an emergency ordinance, necessary for the immediate preservation of the public convenience.

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter eleven of the Revised Ordinances of 1996 is hereby amended by deleting section three thereof in its entirety.

Section 2. Section twenty-six of chapter twelve of the Revised Ordinances of 1996 is hereby amended by deleting, in sub-section (a) thereof, the words "or itinerant musicians or other persons licensed by the license commission" and inserting in lieu thereof the words "or street performers acting in accordance with sub-section (h) hereof".

Section 3. Section twenty-six of chapter twelve of the Revised Ordinances of 1996 is hereby amended by inserting a new sub-section (h) as follows:

(h) No person shall act or perform as an itinerant musician on any public street or private way shown on the Official Map of the city, or in any public park, playground, or the Worcester Common, where such person conducts such activity:

(1) within one hundred feet of any: (A) elementary or secondary school; (b) library; (C) church while in session; (D) hospital or nursing home; or (E) other street performer or group of street performers;  
or,

(2) in such a manner as to block roadways, sidewalks, crosswalks, driveways, stairways, curb cuts, handicapped access ramps nor block access to buildings, parks, public conveyances, businesses, crosswalks, traffic control poles containing pedestrian crosswalk button(s), or within twenty feet of a fire hydrant or within five feet of any fire alarm or other emergency communication devise, including public telephones, either by the performer's location, or by the location of any crowd that the performer may draw (for purposes of this ordinance "block" shall mean to reduce the width of an area for pedestrian passage or access to less than thirty-six inches or, in the case of motor vehicles, to an area less than twelve feet); or,

(3) on any portion of a public street which has been closed to usual vehicular or pedestrian traffic for any reason, except that where an authorized street fair or public festival is being conducted, such activities may be conducted only with the permission of the sponsor of such fair or festival; or

(4) at any time outside of the hours of 8:00 a.m. to 9:00 p.m.; or,

(5) so as to generate noise exceeding a median sound level of eighty decibels measured at a distance of fifty feet from the performer or group of performers; or,

(6) where such activity is conducted within any public park, playground, or the Worcester Common, without the written permission of the Parks & Recreation Commission.

Nothing in this subsection (h) shall prevent any street performer from requesting contributions of money or property at a performance, provided that no sign requesting contributions shall exceed twelve inches by eighteen inches.

In City Council May 7, 1996

Passed to be ordained with an Emergency Preamble by yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7035**

AN ORDINANCE TO AMEND CHAPTER 3, THE LEAVE ORDINANCE,  
OF THE REVISED ORDINANCE OF 1996

Be it ordained by the City Council of the City of Worcester as follows:

Section 1. Chapter 3, the Leave Ordinance, of the Revised Ordinances of 1996, Ss14, Vacation Leave, excepted classes, be and hereby is amended by inserting in paragraph (d) after the title "Instructor" the title of "Nurse".

Section 2. This ordinance shall be effective upon passage.

In City Council August 20, 1996  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7036**

AN ORDINANCE AMENDING CHAPTER SEVEN  
SECTION SIXTEEN OF THE REVISED ORDINANCES OF 1996

Be it ordained by the City Council of the City of Worcester as follows:

1. Section sixteen of Chapter Seven of the Revised Ordinances of 1996 is hereby amended by deleting in paragraph (c) thereof the numbers "\$1.65" and "\$2.87" as they appear therein and inserting in lieu thereof the numbers "\$1.89" and "\$2.99" respectively.

2. Section sixteen of Chapter Seven of the Revised Ordinances of 1996 is hereby amended by deleting in paragraph (f) thereof in its entirety and inserting in lieu thereof the following:

"(f) Unless otherwise specified in its text, any amendment to the rates established herein, or the sewer use rates established by section twenty-six of chapter five of these Revised Ordinances, shall be effective when adopted and shall apply to all bills issued after such effective date regardless of the date the water was consumed or the sewer system utilized."

3. This amendment shall be effective as of July 1, 1996 and continue through June 30, 1997; provided, however, in the event that a subsequent rate ordinance is not adopted by the city council prior to June 30, 1997, this rate shall continue in effect until the effective date of such a subsequent rate ordinance.

In City Council July 23, 1996

Passed to be ordained by a yea and nay vote of Nine Yeas and One Nay.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7037**

AN ORDINANCE AMENDING CHAPTER FIVE  
SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 1996

Be it ordained by the city council of the City of Worcester as follows:

1. Section twenty-six of Chapter Five of the Revised Ordinances of 1996 is hereby amended by deleting in paragraph (g) the number "\$1.70" and inserting in lieu thereof the number "\$1.65."

2. This amendment shall be effective as of July 1, 1996 and continue through June 30, 1997; provided, however, in the event that a subsequent rate ordinance is not adopted by the city council prior to June 30, 1997, this rate shall continue in effect until the effective date of such a subsequent rate ordinance.

In City Council July 23, 1996

Passed to be ordained by a yea and nay vote of Nine Yeas and One Nay.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 7083**

AN ORDINANCE AMENDING CHAPTER TWELVE OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO THE CONSTRUCTION OF WAYS

Be it ordained by the City Council of the city of Worcester, as follows:

Chapter twelve of the Revised Ordinances of 1996 is hereby amended by deleting section twelve thereof in its entirety and inserting in lieu thereof the following new section twelve:

SS 12. Permit for the Construction of Ways

(a) No person shall construct, repair, alter or otherwise open a way for use by the inhabitants thereon or the general public unless 1) the way has been approved by the planning board pursuant to the subdivision control law; or 2) unless the location of the way is in accordance with the official map of the city as amended from time to time; or 3) has been approved by the planning board pursuant to §81G of chapter 41 of the General Laws; and, in the case of 2) and 3) above, unless the planning board has approved the grading, surfacing and drainage of such way.

(b) No person shall construct, repair, alter or otherwise open a way for use by the inhabitants thereon or the general public as described in subsection (a) above without first obtaining an inspection permit from the commissioner. The commissioner may impose reasonable conditions and limitations concerning work to be performed under such permit which shall include, but not be limited to, the following:

(i) unless the completion of the proposed work is validly secured under the subdivision control law, the commissioner shall require the applicant to secure the work in any one or combination of the methods set forth in said subdivision control law (G.L. c. 41, §81U);

(ii) a permit issued hereunder shall be valid for one construction season only, which shall commence on April 1st and end on November 15th. The commissioner, in his sole discretion, may allow the issuance of a permit for work to be undertaken during the time period from December 1st to the end of February;

(iii) the applicant shall establish a time period and schedule for the completion of the permitted work, but in no event shall such time period exceed the term of the permit;

(iv) the applicant shall provide the commissioner a detailed schedule of construction activities;

(v) the applicant shall submit an erosion control plan, which must be approved by the commissioner, relative to the work to be undertaken pursuant to the permit;

(vi) all related inspection fees must be paid in full prior to issuance of the permit;

(vii) a pre-construction conference with the engineering division of the department of public works shall be held prior to issuance of the permit.

In City Council August 20, 1996

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7104**

AN ORDINANCE AMENDING SECTION 13 OF CHAPTER ELEVEN OF THE REVISED ORDINANCES  
OF 1996 RELATIVE TO THE SOLICITATION OF CHARITABLE CONTRIBUTIONS ON  
THE PUBLIC WAYS OF THE CITY

Be it ordained by the city council of the city of Worcester, as follows:

Chapter eleven of the Revised Ordinance of 1996 is hereby amended by inserting after section 13 thereof the following new section 13A:

§13A. Tag Day Permits

(a) Notwithstanding any contrary provision of the Revised Ordinances, the chief of police may issue a permit to any nonprofit charitable organization to allow agents of such an organization to solicit contributions from motorists in vehicles stopped on any public way by reason of a mechanized traffic signal; provided, that:

(1) every such permit shall specify a particular calendar day and the particular hours of such day upon which the solicitation is to be conducted; and,

(2) no such permit shall be issued to any nonprofit charitable organization which has conducted any similar solicitation event in the city within three hundred sixty five days preceding the day upon which the solicitation is to be conducted; and,

(3) each such permit shall specify the locations at which the organization is authorized to conduct such solicitation; and,

(4) each such permit shall be issued on the condition that the organization obtaining the permit shall indemnify and hold the city harmless without regard to any degree of culpability assessed against the city from any claims which are filed against the city as a result of the activities of the organization and its agents in the conduct of such solicitation day; and,

(5) each person engaged in such solicitation shall:

1. be age sixteen years of age or older; and,
2. display identification specifying the name of the individual, the organization named in the permit and the charitable purpose for which contributions are sought;

and,

3. conduct such solicitation only from sidewalks or traffic islands and shall not stand upon any traveled portion of any public way except to receive a contribution offered by a motorist.

(b) The chief may impose such other terms or conditions as he or she may from time to time determine are reasonable to advance the public safety.

(c) Any permit issued under this section may be revoked or suspended without notice by any police officer acting under authority of the chief of police.

(d) Any person soliciting contributions in any public way either without the permit required by this section, or in violation of any provision of this ordinance, shall be punished by a fine of fifty dollars for each offense. Any person who solicits contributions on any public way of the city in the company of any person under the age of sixteen shall be punished by a fine of one hundred dollars for each offense.

In City Council October 1, 1996

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7146**

AN ORDINANCE AMENDING PART II ARTICLE 22, OF  
THE REVISED ORDINANCES OF 1996

Be it ordained by the City Council of the City of Worcester, as follows:

Chapter 2 of the Revised Ordinances of 1996 is hereby amended by deleting Article 22 in its entirety and inserting in lieu thereof the following new article:

**ARTICLE 22. HUMAN RIGHTS COMMISSION**

- Section 1. Policy Statement
- Section 2. Establishment
- Section 3. Definitions
- Section 4. Staff
- Section 5. Membership
- Section 6. Powers of Commission
- Section 7. Contributions to Commission
- Section 8. Relations with City Agencies
- Section 9. Construction
- Section 10. Effect of State and Federal Law

**Section 1. Policy Statement**

It is the policy of the city to assure that every individual shall have equal access to and benefit from all public services, to protect every individual in the enjoyment and exercise of civil rights and to encourage and bring about mutual understanding and respect among all individuals of the city.

It is clear that behavior which denies equal treatment to any of our citizens as a result of their race, color, religious creed, status, sexual orientation, disability or source of income undermines civil order and deprives persons of the benefits of a free and open society. Nothing in this ordinance shall be constructed as supporting or advocating any particular religious view or lifestyle. To the contrary, it is the intention of this ordinance that all persons be treated fairly and equally and it is the expressed intent of this ordinance to bring about the elimination of prejudice, intolerance, bigotry, discrimination and the disorder occasioned thereby.

**Section 2. Establishment**

There is hereby established under the jurisdiction of the city manager an agency of the city to be known as the "Human Rights Commission" (hereinafter the "commission").

**Section 3. Definitions**

For purposes of this article the following definitions shall apply:

"age" refers to the actual or supposed chronological age of an individual eighteen years or older and shall relate to claims of denial of equal treatment due to age. This shall not limit the rights of persons under age eighteen to file a complaint for other than age discrimination (e.g. race discrimination, etc.) if accompanied by a guardian, where necessary.

"disability" refers to any actual or supposed physical or mental handicap of an individual, other than legal incompetency.

"internal disciplinary investigation" refers to any inquiry by the city manager or head of any city department or agency to determine whether the conduct of city employees complies with the ordinances, orders, policies and procedures of the city and, if not, what disciplinary measures are appropriate, insofar as such conduct involves allegations of the impairment or violation of the civil or human rights of any individual.

"marital status" refers to the actual or supposed state of being or having been unmarried, married, separated, divorced or widowed.

"parental status" refers to the actual or supposed condition of having or not having children.

"person" includes, but is not limited to, one or more individuals, partnerships, associations, corporations, agencies, legal representatives, trustees, trustees in bankruptcy and receivers, the city and all political subdivisions, boards and commissions.

"sexual orientation" refers to actual or supposed homosexuality, heterosexuality or bisexuality or orientation or practice including, but not limited to, an orientation that may be presumed on the basis of mannerisms, physical characteristics, manner of dress or deportment.

"source of income" refers to the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents excluding the use of criminal activities as a means of support.

#### **Section 4. Staff**

(a) The staff of the commission shall consist of an executive director, and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

(b) The city manager shall appoint an executive director. The executive director shall be responsible for the administration of the commission and serve at the pleasure of the city manager as its executive officer. The executive director shall have the power and duty to initiate complaints and investigations of discriminatory practices, report his or her findings to the Commission and attempt mediation or conciliation of any complaint alleging discrimination under this ordinance when there is probable cause for such complaint. The executive director shall carry out such additional duties consistent with this ordinance as may be assigned from time to time by vote of the commission.

## **Section 5. Membership**

(a) The commission shall consist of nine members appointed by the city manager for a term of three years provided, however, that, the terms shall staggered such that no more than three terms expire in any one year. The commission shall annually select one of its members as its chair. The chair shall preside over the meetings of the commission. The commission shall represent a broad spectrum of the Worcester community.

(b) Any vacancy, however created, other than by expiration of a term, shall be filled by appointment by the city manager for the unexpired portion of the term.

## **Section 6. Powers of Commission**

The commission shall possess and exercise the powers and duties:

(a) conduct investigations: to receive and investigate complaints of and to initiate its own complaints and/or investigations of:

(1) the denial of equal access to and discrimination in employment, housing, education, recreation and public accommodation (regardless of the public or private source of such denial or discrimination) where such denial or discrimination against a person is based on race, color, religious creed, national origin, gender, age, ancestry, marital status, parental status, sexual orientation, disability or source of income;

(2) the denial to any person of equal access to and benefit from all public services;

(3) the violation of the enjoyment and exercise by any person of his or her civil rights;

(4) the presence in the city of prejudice, intolerance, bigotry, discrimination and the disorder occasioned thereby;

provided, however, that the executive director, with notice to the commission, shall refer any allegation involving the conduct of the any city employee, including the city manager, city clerk, city auditor or the superintendent of schools, to the Massachusetts Commission Against Discrimination or other appropriate state or federal agency and shall in no event initiate or otherwise conduct any investigation or inquiry regarding these officials or employees.

(b) hold hearings: to take testimony, administer oaths, and conduct hearings and adjudicatory proceedings in accordance with sections 9, 10 and 11 of M.G.L. c.30A on any matter within its jurisdiction and, with the assistance and advice of the city solicitor, subpoena witnesses, seek court orders to compel the attendance of witnesses or the production of documents or other evidence.

(c) conduct mediation: to attempt, by mediation, to resolve any complaint over which it has jurisdiction and to recommend to the city manager or other appropriate governmental agency, federal, state or local, such action as it deems appropriate. In the conduct of any such mediation the commission may utilize not only the members and staff of the commission but such organizations as the Worcester County Bar Association, the National Association for Dispute Settlement of the American Arbitration Association and any other similar organizations.

(d) issue orders and reports: after completion of any investigation or hearings on any complaint or matter not resolved by mediation, the commission may

(1) upon a finding of an "unlawful practice", as that term is defined under section 4 of MGL c.151B, issue cease and desist orders to the party believed to be responsible for such unlawful practice; provided, however, that in no event shall the commission issue any cease and desist orders to the city, its departments and agencies, or its employees insofar as the city employee is or was acting within the scope of his or her employment.

(2) make a written report of its recommendations and findings to:

(i) the city manager on any matter within the manager's jurisdiction for review and implementation (including the taking of disciplinary or administrative action) as the city manager deems justified; or,

(ii) the school committee or superintendent of schools on any matter within their jurisdiction; or

(iii) the city council for employees under its jurisdiction; or

(iv) the Massachusetts Commission Against Discrimination (MCAD) on any matter within its jurisdiction; or

(v) other governmental agency having jurisdiction over the matter in question,

and, in all cases, urging and using its best efforts to bring about compliance with its recommendation; or

(3) arrange for legal representation for any complainant who, in the opinion of the commission, has a justifiable complaint which involves a matter outside of the jurisdiction of either the city manager, city council, superintendent of schools or school committee, yet one which is within the jurisdiction of the commission but must be processed by the complainant before the MCAD or some other state or federal governmental agency (or court), provided, however, that the commission shall attempt to secure such representation only for those complainants for whom undue hardship, in the opinion of the commission, would otherwise result; or

(4) assist in securing legal representation for complainants for who, in the opinion of the commission, are indigent or facing undue financial hardship;

(e) review departmental policies: to review the existing policies, rules and regulations of any city department, board, commission or agency and provide its comments, conclusions and recommendations in writing to the city manager and the head or executive officer of any such city department, board, commission or agency, to the extent the foregoing regulations relate to the policies expressed by this ordinance.

(f) review departmental disciplinary actions: to review the results of any internal disciplinary action taken by any department, board, commission or agency of the city, including reports of the internal affairs division of the police department, and to make comments, conclusions and recommendations jointly to the city manager and the head or executive officer of any such department or agency to the extent such internal disciplinary investigations relate to the policies expressed by this ordinance. Upon the request of the executive director, the head or executive officer of any department or agency of the city shall forward to the executive director a copy of any internal disciplinary action report at such time and only to the extent such report becomes a public record under the laws of the Commonwealth. The head or executive officer of any city department or agency shall also furnish, subject to the provisions of section 8 herein and with the advice and consent of the city solicitor, any other such records and information that the executive director may request relative to any internal disciplinary action. The Executive Director shall furnish the commission with copies of any internal disciplinary action report so received and may disclose to the commission, in an appropriate manner or setting as permitted or required by law, any other records and information received pursuant to this subsection. Any individual employed by the city, including members of the commission, its executive director or other staff, whether compensated or volunteers, who discloses any records or information of a personal nature or otherwise not subject to mandatory release under the public records law of the Commonwealth, to any person, except as provided for herein, may be subjected to employee discipline by the appropriate city official or removed from the commission by the city manager, as the case may be.

(g) issue publications: to issue such publications and such results of investigations and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination because of race, color, religious creed, national origin, sex, age or ancestry, marital status, parental status, sexual orientation, disability or source of income.

(h) develop training programs: to develop, in cooperation with the executive offices of human resources and employment and training as well as any federal, state or other city agency or department, programs of instruction for city employees, other municipal employees, or private sector businesses, institutions or employees concerning the elimination of prejudice, intolerance, bigotry and discrimination and the value of mutual self-respect and the achievement of harmonious relationships among all individuals.

(i) create committees: to create such committees from the members of the commission as, in the commission's judgment, will best aid in effectuating the provisions of this ordinance and to empower such sub-committees to study the problems of prejudice, intolerance, bigotry and discrimination existing in the city due to denial of equal treatment as a result of race, color, religious creed, national origin, gender, age, ancestry, marital status, parental status, sexual orientation, disability or source of income.

(j) make recommendations and annual reports: to make such recommendations to any public official or public body as, in its judgment, will effectuate the policy of this ordinance and, annually, to make a written report to the city manager of its activities. The commission's annual report to the city manager shall be made available to the public.

(k) make rules and regulations: to adopt rules and regulations consistent with this ordinance and the laws of the Commonwealth to carry out the policy and provisions of this ordinance and the powers and duties of the commission in connection therewith; and to perform such other duties as may be prescribed under law.

(l) In no event shall the Commission file, or in any way be a party to any criminal actions or complaints in any court of law. In all civil matters the Commission shall be represented solely by the City Solicitor.

#### **Section 7. Contributions**

The commission may, with the approval of the city manager and city council, on behalf of the city, accept contributions, grants and appropriations from other governmental agencies and from civic and charitable foundations, trusts and other organizations, private or public, to effectuate the provisions of this ordinance.

#### **Section 8. Relations with City Agencies**

(a) Subject to the provisions of the city charter and the laws of the Commonwealth, the commission shall receive the cooperation and assistance of all city departments and agencies. The commission shall respect the privacy of all individuals. In the event the staff or members of the commission receive any documents or information of a confidential nature, or which would be exempt from disclosure under the public records law or which pertains to a subject eligible for discussion in executive session, neither the staff nor members of the commission shall release or divulge such documents or information to parties outside of the commission, its staff, the law department or any other appropriate city official.

(b) Unless otherwise provided, herein, all city departments and agencies shall respond to commission requests for administrative and legal services within ten working days of the date of receipt of any such request.

#### **Section 9. Construction**

The provisions of this ordinance shall be construed liberally for the accomplishment of the purposes hereof. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by federal and state law.

**Section 10. Effect of State and Federal Law**

Nothing in this ordinance shall be deemed to exempt or relieve any person from any liability, duty, penalty or punishment provided by any present or future law of the Commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this ordinance.

**In City Council    November 12, 1996**  
**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy.    Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Amendment 7152**

AN ORDINANCE AMENDING PART II, ARTICLE SEVEN,  
SECTION NINE OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO THE FEES OF THE CITY CLERK'S OFFICE

Be it Ordained by the City Council of the City of Worcester as follows:

Section Nine of Article Seven, Part II, of the Revised Ordinances is hereby amended by deleting the section in its entirety and inserting in lieu thereof the following:

§ 9. Schedule of Fees

- |     |  |          |
|-----|--|----------|
| 1.  | for filing and indexing assignment for benefit of creditors.   | \$ 10.00 |
| 2.  | for entering in person at the Clerk's Office an amendment of a record of the birth of a child born out of wedlock subsequently legitimized.  | \$ 25.00 |
| 3.  | for entering through regular U.S. Mail an amendment of a record of the birth of a child born out of wedlock subsequently legitimized.  | \$ 25.00 |
| 4.  | for correcting errors in a record of birth in person at the Clerk's Office.  | \$ 25.00 |
| 5.  | for correcting errors in a record of birth through regular U.S. Mail.  | \$ 25.00 |
| 6.  | for furnishing certificate of a birth in person at the Clerk's Office.   | \$ 8.00  |
| 7.  | for furnishing certificate of a birth through regular U.S. Mail.   | \$ 11.00 |
| 8.  | for furnishing an abstract copy of a record of birth.  | \$ 4.00  |
| 9.  | for entering delayed record of birth.  | \$ 10.00 |
| 10. | for filing certificate of a person conducting business under any title other than his real name.   | \$ 30.00 |
| 11. | for filing by a person conducting business under any title other than his real name of a statement of change of his residence, or of his discontinuance, retirement or withdrawal from, or change of location of, such business. | \$ 20.00 |

12.	for furnishing certified copy of certificate of person conducting business under any title other than his real name or a statement by such person of his discontinuance, retirement or withdrawal from such business.	\$ 5.00
13.	for recording the name and address, the date and number of the certificate issued to a person registered for the practice of podiatry in the Commonwealth.	\$ 20.00
14.	for correcting errors in a record of death in person at the Clerk's Office.	\$ 25.00
15.	for correcting errors in a record of death through regular U.S.	\$ 25.00
16.	for furnishing a certificate of death in person at the Clerk's Office.	\$ 5.00
17.	for furnishing a certificate of death through regular U.S. Mail.	\$ 8.00
18.	for furnishing an abstract copy of a record of death.	\$ 4.00
19.	for entering notice of intention of marriage and issuing certificates thereof.	\$ 25.00
20.	for entering certificate of marriage filed by persons married out of the Commonwealth.	\$ 5.00
21.	for furnishing certificate of marriage in person at the Clerk's Office.	\$ 8.00
22.	for furnishing certificate of marriage through regular U.S. Mail.	\$ 11.00
23.	for furnishing an abstract copy of a record of marriage.	\$ 4.00
24.	for correcting errors in a record of marriage in person at the Clerk's Office.	\$ 25.00
25.	for correcting errors in a record of marriage through regular U.S. Mail.	\$ 25.00
26.	for recording power of attorney.	\$ 10.00
27.	for recording certificate of registration granted to a person to engage in the practice of optometry, or issuing a Certified copy thereof.	\$ 20.00

- |     |   |  |
|-----|---|--|
| 28. | for recording the name of the owner of a certificate of registration as a physician or osteopath in the Commonwealth.   | \$ 20.00   |
| 29. | for recording order granting locations of poles, piers, abutments, or conduits, alterations or transfers thereof, and increase in number of wires and cable or attachments under the provisions of S 22 of chapter 166 of the General Laws.   | \$ 50.00<br>first street<br>\$ 50.00<br>each additional<br>street<br>add'l streets |
| 30. | for examining records or papers relating to birth, marriage or death upon the application of any person, the actual expense thereof, but not less than  | \$ 5.00  |
| 31. | for copying any manuscript or record pertaining to a birth, marriage or death   | \$ 5.00<br>per page  |
| 32. | for receiving and filing a complete inventory of all items to be included in a "closing out sale", "going out of business sale", "discontinuance of business sale", "selling out", "liquidation", "lost our lease", "must vacate sale", "forced out", or other designation of like meaning. | \$ 10.00<br>1st page<br>\$ 2.00<br>add'l pages                                     |
| 33. | for filing a copy of written instrument or declaration of trust by trustees of an association or trust, or any amendment thereof as provided by S2, chapter 182 of the General Laws.  | \$ 20.00   |
| 34. | for recording deed of lot or plot in a place of cemetery.   | \$ 10.00   |
| 35. | for recording any other documents.  | \$ 1.00<br>1st page<br>\$ 2.00<br>add'l pages                                      |

In City Council December 17, 1996

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
**David J. Rushford**  
City Clerk

**Amendment 7153**

AN ORDINANCE AMENDING CHAPTER THIRTEEN,  
SECTION THIRTY SIX OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO PENALTIES FOR PARKING VIOLATIONS

Be it Ordained by the City Council of the City of Worcester as follows:

Section thirty-six of chapter thirteen of the Revised Ordinances of 1996 is hereby amended by deleting paragraphs (c), (d) and (e) in their entirety and inserting in lieu thereof the following:

(c) A fine of fifteen dollars shall be imposed for each violations of §§ 37 (a), (c), (h), (i), (j), and (l) and for each violation of §§ 38, 42 (exclusive of the time limit provisions) 47, 53, 64, 65 and 66.

(d) A fine of twenty dollars shall be imposed for each violation of § 37(e) and (f).

(e) A fine of fifty dollars shall be imposed for each violation of § 39(a). A fine of one hundred dollars shall be imposed for each violation of § 39(b).

In City Council December 17, 1996  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7182**

AN ORDINANCE AMENDING CHAPTER THIRTEEN,  
SECTION THIRTY SIX OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO PENALTIES FOR PARKING VIOLATIONS

Be it Ordained by the City Council of the City of Worcester as follows:

Section thirty-six of chapter thirteen of the Revised Ordinances of 1996 is hereby amended by;

(i) inserting in paragraph (c) the letter "(e)" after the letter "(c)", and before the letter "(h)," and;

(ii) by deleting paragraph (d) in its entirety and inserting in lieu thereof the following:

"(d) A fine of fifty dollars shall be imposed for each violation of §37 (f)."

In City Council January 28, 1997

Passed to be ordained by a yeas and nays vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 7186**

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE REVISED  
ORDINANCES OF 1996 CONCERNING THE STORAGE  
OF UNREGISTERED MOTOR VEHICLES

Be it Ordained by the City Council of the City of Worcester, as follows:

Section 1

Chapter eight of the Revised Ordinances of 1996 is hereby amended by inserting after section nine thereof the following new section 9A:

S 9A Storage of Unregistered Motor Vehicles

(a) The storage, parking, abandonment or keeping of more than one unregistered motor vehicle, or of motor vehicle parts, on private real property, and not within a garage or other closed structure, is prohibited and hereby declared a public nuisance.

(b) No person owning, leasing, occupying or otherwise in control of any private real property shall cause, maintain, or allow the maintenance or existence thereon of any activity prohibited under subsection (a).

(c) The provisions of subsection (a) shall not apply to any activities conducted by a person holding a valid license under General Laws, chapter 140 and/or chapter eleven of these Revised Ordinances, or as may be allowed under the Worcester Zoning Ordinance.

(d) The provisions of subsection (a) shall not apply to the storage, parking or keeping of unregistered antique motor cars (as such term is defined by the General Laws, chapter 90, S1, as amended). Provided, however, that any unregistered antique motor car not stored within a garage or other closed structure,

(i) shall not be within the ordinary view of abutters or those traveling upon the ways abutting the property, or

(ii) shall be covered with a standard vehicle cover of a type manufactured and sold for that purpose.

(e) The storage, parking, or keeping of one unregistered vehicle, other than within a garage or other closed structure, shall be allowed on any property provided that,

(i) the vehicle is not within the ordinary view of abutters or those traveling upon the ways abutting the property, or

(ii) shall be covered with a standard vehicle cover of a type manufactured and sold for that purpose.

(f) Upon inspection and a determination that a violation of subsections (a), (d) or (e) exists, a written notice shall be sent certified mail to the owner of the property, and when known, to any other person leasing, occupying or otherwise in control of the property, notifying such person(s) of the violation, that a public nuisance exists and ordering its removal within a time specified in the notice.

(g) At the expiration of the time specified in the notice under subsection (f), if the nuisance has not been fully abated the property owner, lessee, occupant or person in control thereof shall be in violation of this ordinance and subject to prosecution therefore. Each successive day that a violation continues shall constitute a separate offense.

Section 2

Section two of chapter fifteen of the Revised Ordinances of 1996 is hereby amended by inserting the following new subsection (b) (xxi):

(xxi) violation of chapter eight, SS9A, regulating the storage of unregistered motor vehicles -

penalty:

first offense in a calendar year . . . .	\$ 50.00
second offense in a calendar year. . . .	\$ 75.00
third offense in a calendar year . . . .	\$100.00
fourth and each subsequent offense in a calendar year . . . . .	\$150.00

enforcing person: commissioner of public health  
and code enforcement; police chief

**In City Council February 4, 1997  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Amendment 7267**

AN ORDINANCE RELATIVE TO THE DEMOLITION OF HISTORIC BUILDINGS

Be it ordained by the City Council of the City of Worcester as follows:

Chapter nine of the Revised Ordinances of 1996 is hereby amended by inserting a new section thirteen, as follows:

§ 13. Historic Building Demolitions

(a) This section thirteen is enacted to preserve and protect historically significant buildings, landmarks and places within the city and to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them.

(b) The following words and phrases, when used in this section thirteen, shall have the following meanings:

"building" - any combination of materials forming a shelter for persons, animals or property.

"commission" - the Worcester Historical Commission established by Article 20 of Part II of these Revised Ordinances.

"demolition" - any act of pulling down, destroying, removing or razing a building or any designated historic portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same.

"director" - shall mean the director of code enforcement as established by § 3 of Article 33 of Part II of these Revised Ordinances.

"designated historic building" - any building or portion thereof, including those within any historic district established by the city under the provisions of c. 40C of the General Laws and § 1 of Article 20 of Part II of these Revised Ordinances, and which is listed on, or within an area listed on, the National Register of Historic Places, or the State Register of Historic Places, or is the subject of a pending application for listing on said Registers, or is listed on the National Register Eligible List established by the commission pursuant to its designation as a certified local government by the Massachusetts Historical Commission.

(c) No person shall demolish any designated historic building without the approval of the commission as herein provided. The director shall not issue any permit for the demolition of any designated historic building unless the applicant for any such permit presents evidence of the approval of the commission as provided herein. The provisions of this subsection (c) shall not apply to the demolition of any designated historic building which has been approved in a Final Environmental Impact Report issued by the Secretary of Environmental Affairs under the Massachusetts Environmental Protection Act, G.L. c.30, §61 - §62H.

(d) The commission shall maintain a list of every designated historic building and shall keep a copy of such list on file with the director. The commission shall notify the director whenever it makes any changes to the list of designated historic buildings in Worcester.

(e) Any person may request the commission for approval of the demolition of a designated historic building. Such requests shall be filed in accordance with the procedure established by the commission. The commission shall designate an officer responsible for the receipt of such requests who shall establish a date and time for a public hearing on the application. Such hearing shall occur not more than forty-five days from the date the application for approval has been received by the commission. The commission shall publish a notice of the hearing in a local newspaper not less than fourteen days before the date of the hearing. The commission shall send by regular mail at least fourteen days before the hearing a notice of the hearing to any person whose property abuts the property of the applicant as determined from the records of the city assessor. The commission shall also notify the director of any such hearing and shall send notice by regular mail to any person who files a written request with the commission to receive such notices.

(f) At such hearing, the commission may receive information regarding the current condition of the building, its conformity with the standards for designation as a designated historic building, the cost to repair or maintain the building, the ability of the owner to provide such funds either directly or through third party financing, the economic viability of the current or potential uses of the building, as well as any other factor relevant to the application of this ordinance to the building.

(g) If, after such hearing, the commission determines either (1) that the demolition of the designated historic building would not be detrimental to the historical or architectural heritage or resources of the city, or (2) that the issuance of a demolition approval is necessary to avoid an undue economic hardship to the property owner, the commission shall approve the request and forthwith notify the applicant and the director of such determination. Upon receipt of such notification, or upon the failure by the commission to make the determinations described in subsection (i) herein after forty-five days from the date the application was filed with the commission, the owner may, upon receipt of a permit from the director, proceed with the demolition of the building.

(h) If, after such hearing, the commission determines both (1) that the demolition of the designated historic building would be detrimental to the historical or architectural heritage or resources of the city, and (2) that the immediate demolition of the building is not necessary to avoid an undue economic hardship to the property owner, the building may not be demolished until six months after the date upon which the request was filed with the commission. In notifying the property owner of its decision the commission shall specify the date upon which the six-month delay period expires. The six-month delay period established herein may be reduced at any time by the commission whenever it is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate, or restore such building. During the six-month delay period, the commission shall assist the owner in efforts to locate a purchaser to preserve, rehabilitate and restore the subject building.

(i) The approval of the commission, whether granted directly by vote of the commission or constructively by the passage of the forty-five day or six-month periods established herein, shall be valid for one year from the date of such approval.

(j) The commission is authorized to institute any and all proceedings in law or equity as it deems necessary and appropriate to obtain compliance with the requirements of this section, or to prevent violation thereof. The city solicitor shall represent the commission in all such proceedings.

(k) Any person who, without the actual or constructive approval of the commission as required by this section, demolishes or attempts to demolish any designated historic building, either as the owner of the building or acting as an agent or independent contractor engaged under authority of the owner, shall be punished by a fine of \$300.00. Each day that any portion of a designated historic building remains demolished, in whole or in part, shall constitute a separate offense.

(l) The provisions of subsection (c) of this section shall not apply if such building is the subject of an emergency order issued under authority of G.L. c. 143, §§ 6-9, or § 124 of the state building code, or an Executive Order Concerning Demolition Procedures, as issued and revised from time to time by the city manager. The provisions of subsection (c) of this section shall also not apply whenever, in the opinion of the director, the condition of any designated historic building requires immediate emergency action to abate a threat to the health or safety of the public.

**In City Council June 3, 1997**

**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

David J. Rushford, Clerk  
**David J. Rushford**  
City Clerk

**Amendment 7276**

AN AMENDMENT TO THE REVISED ORDINANCES  
OF 1996 RELATIVE TO THE LICENSING AND CONTROL OF DOGS

Be it ordained by the City Council of the city of Worcester, as follows:

Chapter Eight of the Revised Ordinances is hereby amended by deleting sections ten through seventeen in their entirety and inserting in lieu thereof the following new sections ten through seventeen:

**§ 10. Licenses**

(a) Every owner or keeper of a dog six months old or over, shall, annually during the month of March, or within 30 days after a dog becomes six months old, obtain a license from the city clerk. Each license shall be numbered and contain the color, breed, gender and special markings of the dog; the name, residential address and phone number of the owner; a description of the symptoms of rabies printed thereon; and such other information as the city clerk deems appropriate. The city clerk shall not issue any license to any person under the age of eighteen, nor issue more than two licenses for any single dwelling unit. Each license shall be issued upon the condition that the owner or keeper shall comply with the provisions of this ordinance and any law, rule or regulation relating to the ownership and control of dogs.

(b) The city clerk shall not issue any license unless the owner or keeper provides either a veterinarian's certification that such dog has been vaccinated in accordance with §13, herein, or has been certified exempt from such provision as hereinafter provided, or a notarized letter from a veterinarian that a certification was issued or a metal rabies tag bearing an expiration date indicating that such certification is still in effect.

(c) The city clerk may grant an exemption from the requirements of § 13 for any dog which has not yet obtained the age of six months, any dog which the commissioner of public health or his or her designee, for a specified period of time, declares exempt upon presentation of a veterinarian's certificate stating that because of an infirmity, other physical condition or regiment of therapy, that inoculation is thereby deemed inadvisable, or any dog in transit, or any dog brought into the city temporarily for the sole purpose of showing in dog shows or exhibitions.

(d) The city clerk shall furnish with every license issued hereunder, tags containing the words "city of Worcester" and the license number and the year issued. The owner or keeper of every dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material, to which such tag shall be securely fastened.

(e) The fee for every license, except as otherwise provided, shall be as follows:

(i) females	\$10.00
(ii) males	\$10.00
(iii) spayed Females	\$ 8.00
(iv) neutered Male	\$ 8.00

(f) Any person requesting a license for a spayed female or neutered male shall present a certificate, from the registered veterinarian who performed the operation, that the dog has been spayed or neutered, as the case may be, and has thereby been deprived of the power of propagation.

(g) If the city clerk is satisfied that the certificate of the veterinarian who spayed the dog cannot be obtained, he may accept in lieu thereof a statement signed under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth, describing the dog and stating that he has examined such dog and that it appears to have been, and in his opinion has been spayed and thereby deprived of the power of propagation or a receipt of a bill from the veterinarian who performed the operation that spayed such female dog.

(h) No fee shall be charged for a license for a dog specially trained to lead or serve a blind person; provided, that the Massachusetts Commission for the Blind certifies that such dog is so trained and is actually in the service of a blind person. No fee shall be charged for a license for a dog professionally trained in the hearing dog business to serve a deaf or audibly impaired person; provided, that the director of the office of deafness certifies that such dog is so trained and is actually in the service of a deaf or audibly impaired person. For purposes of this section and "audibly impaired person" shall be any individual unable to hear air conduction thresholds at an average of forty decibels. Any license issued to a blind, deaf or audibly impaired person shall bear a special designation indicating that such dog is a "registered service dog".

(i) All fees collected pursuant to this chapter shall be deposited with the city treasurer who shall credit them to the general fund of the city. No license fee or part thereof shall be refunded because of the revocation or surrender of the license, or the subsequent death, loss, spaying, or removal from the city, or other disposal, of the dog.

#### **§ 11. Kennel License**

(a) No person, without a valid kennel license from the city clerk, shall: (i) own or keep more than two dogs or cats **six** months old or older in a single dwelling unit; or, (ii) maintain any number of dogs or cats for boarding, training, breeding or for sale, including a shop where dogs are on sale. Each kennel license shall be valid for one year beginning on April first and ending on March thirty-first. Each license shall contain the name, address and phone number of the owner or keeper, the number of dogs or cats maintained and such other information as the city clerk deems appropriate. Each license shall be issued upon the condition that the owner or keeper shall comply with the provisions of this ordinance and any law, rule or regulation relating to the ownership and control of dogs or cats.

(b) The kennel license shall be issued in lieu of the license required by § 10 above for any dog while kept at such kennel during any portion of the period for which the kennel license is valid. The holder of a kennel license shall cause the dog kept therein to wear, while it is at large, a collar or harness of leather or other suitable material, to which shall be securely attached a tag showing the number of the kennel license, the year of the issuance and the words "city of Worcester." Such tags shall be furnished by the city clerk in quantities not less than the number of dogs licensed to be kept in such kennel.

(c) Any domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse and for the relief of suffering among animals shall be entitled to a kennel license without charge, providing all other applicable provisions are satisfied.

(d) Every holder of a kennel license shall maintain their kennel in a sanitary and humane manner and shall keep a record of all dogs or cats, including their license numbers, kept in the kennel.

(e) Every holder of a kennel license shall, upon delivering an unlicensed dog to a purchaser or to any other person, attach to such dog a collar or harness which shall carry a tag marked with the name and address of the kennel licensee, and a number which shall be properly recorded on the records of the licensee. The kennel licensee shall also furnish to every person to whom a dog is delivered a certificate bearing the number on the dog's tag and a description of the dog. Such certificate shall bear the date of the purchase or delivery and, with the tag, shall for fourteen days following such date, be a legal substitute for a license. The purchaser or recipient of a dog from a kennel licensee shall, within two weeks of the purchase or receipt, obtain a license in accordance with section one of this chapter and return the temporary tag to the kennel licensee with a certificate signed by the city clerk certifying that the dog has been licensed. If any purchaser or recipient fails to comply with the above requirements, the kennel licensee shall within seven days notify the city clerk of the name and address of the purchaser or recipient, and the date of delivery.

(f) The city clerk, the commissioner of public health and code enforcement, or their designee, or any police officer or dog officer, may at any time inspect or cause to be inspected any kennel licensed under this section and if, in their or his judgment, the kennel is not being maintained in a sanitary or humane manner, or if records are not properly kept as required by this ordinance or other applicable law, or is in violation of any provision of this ordinance, the city clerk shall by order revoke or suspend, and in the case of suspension may reinstate, such license.

(g) No kennel license shall be issued unless the applicant presents evidence to the city clerk showing that the applicant has reached the age of eighteen and has complied with the zoning ordinances of the city of Worcester with respect to kennels. In no case shall a kennel license be issued to any person whereby a kennel would be maintained in any multi-family dwelling or on the premises thereof.

## **§ 12. Dangerous Dogs & Nuisance Animals**

(a) No person shall own, harbor or keep any dangerous dog anywhere within the city for any length of time. For purposes of this section, a "dangerous dog" shall be any dog which:

1. has, without provocation, bites or inflicts serious injury on any person or any domestic animal; or

2. is owned, harbored or trained primarily or in part for the purpose of dog fighting; or

3. is owned or harbored on property known for drugtrafficking or gang activities; or

4. has been impounded by an animal control officer for a violation of section 14 (a)(2) of this chapter, or has been otherwise observed in violation of section 14 (a)(2) of this chapter, on at least three separate occasions within any twelve-month period.

(b) The city clerk shall deny a license to anyone attempting to license a dangerous dog as defined by this section and shall revoke the license of any dog that has subsequently been designated as dangerous.

(c) The chief of police shall order any dangerous dog as defined by this section to be removed from the city and may exercise any of the enforcement powers granted under G.L. chapter 140, § 151, or any other regulation, statute, ordinance or upon order of a court.

(d) No person shall own or keep a "nuisance animal" which shall be any animal which molests, harasses, annoys, injures, attempts to injure, assaults, bites, or otherwise injures any person or other animal; or which damages or destroys any private or public property; or which trespasses on the grounds of any public school in the city; or which barks, whines or howls and disturbs the peace and tranquility of an area; or which interferes with a police officer, fire fighter, emergency medical care provider, or city inspector while performing their duties.

(e) No person shall subject any animal to abuse, inhumane care, or unsafe or unsanitary conditions.

### **§ 13. Vaccination Required**

(a) Whoever is the owner or keeper of a dog six months of age or older shall cause such dog to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the department of public health. Such owner or keeper shall procure a veterinarian's certification that such dog has been so vaccinated and setting forth the date of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certificate was issued, or a metal rabies tag bearing an expiration date indicating that such certification is still in effect.

(b) Unvaccinated dogs acquired or brought into the city shall be vaccinated within thirty days after acquisition or entry into the city or upon reaching the age of six months, whichever comes later.

(c) Vaccinated dogs shall be revaccinated in accordance with rules and regulations adopted and promulgated by the department of public health.

### **§ 14. Duties of Dog Owners**

(a) It shall be unlawful for any person to:

1. keep or harbor any dog without the license required by sections ten or eleven of this chapter; or violate any requirement imposed as a condition to the issuance of a license under sections ten or eleven of this chapter; or

2. permit any dog he or she owns or keeps to run or roam at large off the premises of the owner or keeper without either being secured by a leash which does not exceed six feet in length or secured in an enclosed animal transportation cage; or

3. fail to cause any dog to be vaccinated as required by section thirteen of this chapter; or

4. maintain a kennel in violation of the Zoning Ordinance of the city of Worcester, or in any multi-family dwelling or on the premises thereof; or

5. use any license for a dog other than for the dog for which it was issued; or

6. withhold or falsify any information on an application for a dog or kennel license; or

7. allow any dog, except a registered service dog, to be in any city park, public cemetery or playground; or

8. allow any dog, except a registered service dog, to be in or on any place open to the public within that area of the city surrounded by and including both sides of Irving, Linden and Harvard Streets to the west, Madison Street to the south, Route I-290 to the east and Concord Street to the north, unless the dog is licensed at an address within said area; or

9. permit any dog he or she owns or keeps to deposit any excreta on any property, whether public or privately owned, which is open to the public, without immediately removing such excreta for disposition in a sanitary manner; or

10. permit dog excreta to accumulate on his/her property; or

11. cause or permit any dog, whether leashed or unleashed, to hang from or otherwise damage any tree, whether public or private.

(b) The owner or keeper of a domestic animal shall properly dispose of the animal within seventy-two hours of its death.

#### **§ 15. Enforcement**

(a) The city manager, acting through the chief of police, police officers, animal control officers, or any officer or employee of the city under the jurisdiction of the city manager, shall have authority to enforce the provisions of this chapter and shall have all the powers and duties afforded by chapter 140 of the General Laws as it relates to the regulations of dogs and dog owners. Enforcement of this ordinance may, in the discretion of the city manager or the enforcement agents described above, be initiated as a criminal matter or an in rem proceeding under the provisions of this section, or a non-criminal matter under the provisions of section seventeen of this chapter, or any combination of the above.

(b) Any person may make a complaint to the chief of police pursuant to § 157 of chapter 140 of the General Laws. The chief of police shall investigate the matter in accordance with the terms of said section and may make any order concerning the restraint or disposal of such dog as provided for therein.

(c) Each violation of any of the provisions of this chapter shall be punished by a fine of fifty dollars for each offense with each day of violation constituting a separate offense. Any person who is punished under this section, or penalized under the provisions of section seventeen of this chapter, for three or more violations in any two year period shall immediately forfeit any license issued under sections ten through seventeen of this chapter and shall be ineligible to hold any dog or kennel license for one year from the date of the third conviction or imposition of a civil penalty.

(d) In addition to any fine or monetary penalty imposed by sections ten through seventeen of this chapter, any dog found running at-large within the city, or any animal found to be a dangerous dog or a nuisance animal, shall be deemed forfeit and may be seized and impounded by the city. The owner of any such animal shall be liable to the city for all fees and expenses paid for the protection, care, rehabilitation or euthanasia of any such animal. The owner of any animal deemed forfeit and seized by the city shall have the right to request a hearing before the chief of police to determine whether the animal qualifies as a dangerous dog or nuisance animal under this chapter, if a request for a hearing is made in writing to the chief of police within seventy-two hours after such seizure occurs. Any such hearing shall be informal and may be conducted by the chief of police, or his or her designee.

(e) Every license issued under this chapter shall become void whenever the licensee is found guilty of, or penalized in any manner for, sections seventy-seven, eighty A, ninety-four or ninety-five of chapter two hundred and seventy-two of the General Laws. The licensee shall immediately return and surrender any such license to the city clerk. No person shall be given a license under the provisions of this chapter during a period two years from the date of being found guilty or penalized in any manner as aforesaid, and any such license issued shall be void and shall be surrendered upon demand of the city clerk, or his designee.

#### **§ 16. Additional Rules and Regulations Under G.L. c. 140**

(a) The city clerk, chief of police and commissioner of public health and code enforcement shall have the authority to make regulations appropriate for the implementation and enforcement of this chapter.

(b) Nothing in this chapter or any rule or regulation adopted hereunder shall contradict the provisions of chapter 140 of the General Laws relating to the turning over or sale of animals to any business or institution licensed or registered as a research facility or animal dealer in § 151, the minimum confinement period of dogs in § 151A, or the methods of execution in § 151A.

(c) Any provision of sections 136A through 174D of chapter 140 of the General Laws, as may be amended from time to time, not inconsistent with this chapter shall continue to have the force of law within the city.

#### **§ 17. Non-Criminal Disposition**

(a) The violation of any provision of sections ten through seventeen of this chapter may be enforced through the non-criminal procedures described in § 173A of chapter 140 of the General Laws, (as the same may be amended from time to time), except that, by this ordinance, the schedule of fines provided for in § 173A shall be superseded by the provisions of this section.

(b) The non-criminal penalty for violation of any provision of this ordinance shall be fifty dollars for each offense with each day of violation constituting a separate offense.

In City Council June 24, 1997  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
**David J. Rushford**  
City Clerk

**Amendment 7302**

AN ORDINANCE AMENDING SECTION 14 (a) 8 OF CHAPTER 8 OF THE REVISED ORDINANCES OF 1996 EXEMPTING ORGANIZED DOG SHOWS, ACTS OR EVENTS FROM CERTAIN PROVISIONS OF THE ANIMAL CONTROL ORDINANCE

Be it ordained by the City Council of the city of Worcester, as follows:

Section 14 (a) 8 of Chapter 8 of the Revised Ordinances of 1996, as most recently amended, is hereby amended by adding the following sentence to the existing section, after the words "... within said area;" and before the word "or"

"except that nothing herein shall prohibit any dog from participating in, being transported to or from, or being exercised or boarded in connection with, any dog show, act or event for which an entertainment license has been issued by the city under G.L. c. 140, or for which a permit has been issued pursuant to the Department of Public Health and Code Enforcement's regulations for the keeping or exhibition of animals, which is conducted by any corporation organized primarily for the promotion of dogs, so long as any such dog is secured in a cage or by a leash which does not exceed six feet in length while on any street open to the public, and so long as, at no time shall any such dog be taken into the Worcester Common or any city park, playground or schoolyard."

In City Council      September 16, 1997  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy.    Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7324**

AN ORDINANCE ADOPTING A RESPONSIBLE  
EMPLOYER PLAN FOR THE CITY OF WORCESTER

Be it Ordained by the City Council of the City of Worcester as follows:

1. Chapter Two of the Revised Ordinances of 1996 is hereby amended by inserting a new section thirty-five as follows:

**§ 35. Responsible Employer Ordinance**

(a) The city council hereby finds and determines that the failure of certain construction firms awarded contracts funded by the city to include and enforce provisions requiring compliance with state laws governing the payment of prevailing wages, the provision of workers compensation coverage, and the proper classification of individuals as employees and not as independent contractors, as well as provisions concerning health insurance coverage and state-certified apprenticeship programs, is injurious to the life, health and happiness of individuals employed by such firms and is deleterious to the quality of life in the city where most of such individuals reside.

(b) Every contract awarded by the city under G.L. c. 149, § 44A(2) where the amount of the contract is more than one-hundred thousand dollars, and any subcontract awarded in connection with any such general contract where the amount of such subcontract is more than twenty-five thousand dollars, shall be deemed to incorporate by reference the provisions of sub-parts (1) through (6) of this subsection together with the provisions of subsections (c), (d) and (e) of this section.

(1) The bidder and all subcontractors under the bidder shall comply with the city residents jobs ordinance codified as § 32 of chapter two of the Revised Ordinances of 1996;

(2) The bidder and all subcontractors under the bidder shall comply with the requirements of G.L. c. 149 concerning the payment of prevailing wage rates to their employees;

(3) The bidder and all subcontractors under the bidder must maintain and participate in a bona fide apprentice training program as defined by G.L. c. 23, §§ 11H & 11I for each apprenticeable trade or occupation represented in its workforce that is approved by the division of apprentice training of the department of labor and industries of the commonwealth and must abide by the apprentice to journeymen ratio for each trade prescribed therein in the performance of the contract;

(4) The bidder and all subcontractors under the bidder must furnish, at its expense, hospitalization and medical benefits for all individuals employed on the project or coverage which is comparable to the hospitalization and medical benefits provided by the health and welfare plans in the applicable craft recognized by G.L. c. 149, § 26, in establishing minimum wage rates;

(5) The bidder and all subcontractors under the bidder must maintain appropriate industrial accident insurance coverage in accordance with G.L. c. 152 for all individuals employed on the project;

(6) The bidder and all subcontractors under the bidder must properly classify individuals employed on the project as employees rather than independent contractors and comply with all laws concerning workers' compensation insurance coverage, unemployment taxes, social security taxes and income taxes as respects all such employees.

(c) All bidders and all subcontractors under such bidders who are awarded, or otherwise obtain, contracts from the city on projects governed by G.L. c. 149, § 44A(2), shall comply with the obligations described in sub-parts (1) through (6) of subsection (b) of this section for the entire duration of their work on the project, and an officer of each such bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with these obligations.

(d) Any bidder or subcontractor under the bidder who fails to comply with any of the obligations described in sub-parts (1) through (6) of subsection (b) of this section for any period of time shall be subject to any or all of the following sanctions:

(1) temporary suspension of work on the project until compliance is obtained; or,

(2) withholding by the city of payment due under the contract until compliance is obtained; or,

(3) permanent removal from any further work on the project; or,

(4) liquidated damages payable to the city in an amount equal to five percent of the dollar value of the general contract.

(e) In addition to these sanctions a general bidder or contractor shall be equally liable for any violation of the obligations described in sub-parts (1) through (6) of subsection (b) of this section committed by any of its subcontractors or sub-bidders, excepting only those violations which arise from work performed by subcontractors with subcontracts governed by G.L. c. 149, § 44F. Any contractor or subcontractor who has been determined to have violated any of the provisions of subsections (b) or (c) of this section shall be barred from performing any work on any future contracts awarded by the city for six months for the first violation, three years for the second violation, and permanently for a third violation.

(f) The provisions of this section shall not apply to construction projects for which the low general bid was less than one-hundred thousand dollars, or to work performed pursuant to subcontracts governed by G.L. 149, §44F where the bid for such subcontract was less than twenty-five thousand dollars.

In City Council September 16, 1997  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7344**

AN ORDINANCE AMENDING CHAPTER TWELVE, SECTION NINETEEN  
OF THE REVISED ORDINANCES OF 1996 RELATIVE TO SAFEGUARDS  
REQUIRED FOR PERMITTED WORK UPON STREETS AND SIDEWALKS

Be it ordained by the city council of the city of Worcester as follows:

I. Section nineteen of chapter twelve of the Revised Ordinances of 1996 is hereby amended by deleting paragraph (g) in its entirety and inserting in lieu thereof the following paragraph:

"(g) Every person receiving a permit or license required by any provision of this chapter shall execute a written agreement to indemnify and save harmless the city against all damage or cost by reason of any claim for damages, or any process, civil or criminal, on account of the existence of such obstruction or excavation, or any injury to any person occasioned thereby and such person shall be required to obtain an insurance policy of sufficient coverage, including completed operations, to carry out the agreement to indemnify. The sufficiency of said insurance shall be approved by the commissioner and the city solicitor."

II. Section nineteen of chapter twelve of the Revised Ordinances of 1996 is hereby further amended by inserting a new paragraph (h), after paragraph (g), to read as follows:

"(h) The commissioner may require any person receiving a permit or license required by any provision of this chapter to post security, in a form and of an amount acceptable to the commissioner, for purposes of ensuring completion of the permitted or licensed project work."

**In City Council November 10, 1997**

**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**

***David J. Rushford***

**City Clerk**

**Amendment 7345**

AN ORDINANCE AMENDING CHAPTER FIVE, SECTION SIXTEEN  
OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO SURETY REQUIRED FOR DRAINLAYERS

Be it ordained by the city council of the City of Worcester as follows:

Section sixteen of chapter five of the Revised Ordinances of 1996 is hereby amended by deleting the second sentence of subsection (a) in its entirety and inserting in lieu thereof the following:

" Such person so licensed shall post a form of surety acceptable to the commissioner, in a sum of not less than five thousand dollars, for the faithful performance of such work as he may execute, and to make good any defects in material or workmanship which may appear in any sewer on account of work done by said drainlayer, and to remunerate the city and any person connected to such work for loss or damage occurring in consequence of any act done under any permit granted said drainlayer."

**In City Council November 10, 1997**

**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**

***David J. Rushford***  
City Clerk

**Amendment 7349**

AN ORDINANCE AMENDING CHAPTER FOUR OF THE REVISED ORDINANCES  
OF 1996 RELATIVE TO RECYCLING AND SOLID WASTE COLLECTION

Be it ordained by the city council of the city of Worcester, as follows:

Section six of chapter four of the Revised Ordinances of 1996 is hereby amended by inserting the following new paragraph at the end of paragraph (g):

(h) No person, unless authorized by the commissioner shall sort, open, remove items from, place items in, or in anyway disturb the solid waste bag or recycling bin placed at curbside by another.

In City Council December 2, 1997

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

**David J. Rushford**

City Clerk

**Amendment 7350**

AN AMENDMENT TO THE ORGANIZATION PLAN  
FOR THE ELDER AFFAIRS DEPARTMENT  
CONCERNING THE WORCESTER SENIOR CENTER

Be it ordained by the City Council of the city of Worcester, as follows:

1. Article Sixteen of Part II of the Revised Ordinances is hereby amended by deleting the entire text of said article and inserting in lieu thereof the following:

**ARTICLE 16. ELDER AFFAIRS DEPARTMENT**

- § 1. Establishment
- § 2. Function
- § 3. Department Personnel & Membership on Commission
- § 4. Duties & Responsibilities of the Department
- § 5. Duties & Responsibilities of the Commission
- § 6. Duties & Responsibilities of the Senior Center Committee
- § 7. Executive Director

**§ 1. Establishment**

Under authority of the General Laws, chapter forty, section eight B, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an agency of the city to be known as the "Executive Office of Elder Affairs" (hereinafter "department").

**§ 2. Function**

It shall be the function of the department to enhance the quality of life for elders in Worcester by identifying needs, developing and implementing programs and services to meet those needs, advocating on behalf of elders and operating a focal point senior center within the city of Worcester.

**§ 3. Department Personnel & Membership on Commission**

(a) The department shall consist of a fifteen member commission, an executive director and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

(b) The members of the commission shall be appointed by the city manager for terms of three years. The terms shall be staggered such that five terms shall expire on October thirty-first of each year.

(c) The city manager shall designate five members of the commission to serve on a standing committee known as the "senior center committee".

(d) The city manager may, from time to time, designate one member of the commission as the chair of the commission and one member of the senior center committee of the commission as the chair of the senior center committee.

(e) The executive director shall be appointed by, and shall serve at the pleasure of, the city manager.

**§ 4. Duties & Responsibilities of the Department**

It shall be the duty and responsibility of the department:

(a)to collect facts and statistics and to conduct special studies affecting the health and welfare of the elderly population of the city;

(b)to encourage the development of programs for the elderly in Worcester;

(c)to identify the total needs of the community's older population;

(d)to educate and to enlist the support of the community on the needs of the elderly;

(e)to promote the coordination of programs designed for the elderly in Worcester;

(f)to advise the public agencies of the city on matters affecting the elderly;

(g)to prepare reports to the commission and the city manager on all state and federal legislation concerning the elderly, including but not limited to state and federal funds and programs available to the elderly;

(h)to cooperate with the Executive Office of Elder Affairs of the Commonwealth;

(i)to manage and operate a senior center facility, which shall be the land and buildings acquired by the city of Worcester and located on Providence Street between Winthrop Street and Spurr Street (hereinafter "senior center");

(j)to encourage and assure within the senior center the maximum level of coordination, collaboration and co-location of individuals and organizations, public and private, engaged in the delivery of services, programs and activities of interest to elders, such as: health insurance, caregiver, benefit and employment counseling services; medical and screening clinics; information and referral services on the issues of health, housing, transportation, education, legal assistance, consumer protection, public safety and support groups; on-site and delivered meals and emergency food distribution; literacy, citizenship and English-as-a-second-language instruction; vocational, cultural and computer programs; senior outreach; senior travel; recreational and wellness programs; dances; gardening; story telling; concerts and entertainment; transportation; day care for elders; and, child care for grandparents raising grandchildren; and

(k)to perform such other duties as may be prescribed by law, or as directed by the city manager.

**§ 5. Duties & Responsibilities of the Commission**

(a) The commission shall have general superintendence of the senior center.

(b) The commission shall have authority to make and enforce such rules and regulations as may be necessary or desirable for the efficient operation of the senior center; provided, that no such rule or regulation shall be voted upon by the commission unless it has first received a recommendation of the senior center committee as to the advisability of any rule or regulation.

(c) In addition to the senior center committee described herein, the commission may establish standing or ad hoc committees for the conduct of its affairs and may adopt rules of procedure for the operation of the commission and any committees so formed.

**§ 6. Duties & Responsibilities of the Senior Center Committee**

The senior center committee shall address all matters concerning the management and operation of the senior center and shall make reports and recommendations to the commission on all items it considers. No recommendation of the senior center committee shall be deemed adopted unless and until it is approved by majority vote of the commission.

**§ 7. Executive Director**

The executive director of the department shall, under the general superintendence of the commission and the direction of the city manager, be responsible for the following:

- (1) serve as the administrative agent and clerk of the commission;
  - (2) administer the department;
  - (3) perform such duties as the commission or the city manager may direct;
- and
- (1) execute on behalf of the department any contract, lease or any other legal document. Any such document involving two thousand dollars or more shall not be binding unless it is also signed by the city manager.

In City Council    January 6, 1998  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy.    Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7412**

AN ORDINANCE AMENDING CHAPTER FIVE OF THE REVISED ORDINANCES  
OF 1996 RELATIVE TO REVISING THE SEWER USE CHARGE  
LEVIED FOR A TEMPORARY GROUNDWATER TREATMENT SYSTEM

Be it ordained by the city council of the city of Worcester, as follows:

Section nineteen of chapter five of the Revised Ordinances of 1996 is hereby amended by inserting the following new paragraph at the end of paragraph (d):

(e) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the commissioner, upon request, shall have the authority to reduce the assessment of the sewer use fee pursuant to §26 of this chapter in order to provide additional incentives for the cleanup and redevelopment of contaminated sites, and to assist in the management of groundwater cleanup operations of such sites. Such reductions in the sewer use charges shall be administered in accordance with the following:

(i) For an initial period not to exceed three years from the date of issuance of the applicable temporary discharge permit, the sewer use fee for a qualifying groundwater treatment system shall be fifty percent (50%) of the fee otherwise established under §26.

(A) Upon demonstrated need, the permittee may receive up to two, one (1) year extensions of reduced fee payments.

(ii) The fees established under subparagraph (i), above, shall be determined for a maximum of three (3) one-year periods, based on the total volume of yearly discharge calculated from the maximum discharge rate anticipated for the system during the ensuing year. Under these provisions, the yearly discharge fee shall be calculated and paid in full upon approval of an application to the commissioner for the first year of discharge, and at the one and two year anniversaries of the permit, the permittee may submit a recalculated discharge request using revised flow estimates for the ensuing year.

(iii) In order to operate under a temporary discharge permit as a qualified groundwater treatment system, the operator shall provide the commissioner with a copy of the proposed system's approval under the Massachusetts Contingency Plan (310 CMR 40.00).

(iv) Once the groundwater treatment system becomes operational, the operator thereof shall provide the commissioner with monthly monitoring reports containing detailed information on the quality and quantity of system effluent, in accordance with the pertinent regulations of the City of Worcester and the Upper Blackstone Water Pollution Abatement District.

In City Council March 3, 1998

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7456**

AN ORDINANCE AMENDING SECTION 11 OF CHAPTER 14  
OF THE REVISED ORDINANCES OF 1996 CONCERNING SIDEWALK  
SALES AT WORCESTER'S CENTRUM CENTRE

Be it ordained by the city council of the city of Worcester, as follows:

Section eleven of chapter fourteen of the Revised Ordinances of 1996 is hereby amended by deleting in subsection (b) thereof the words "Worcester Centrum" and inserting in lieu thereof the words "Worcester's Centrum Centre".

In City Council June 9, 1998

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 7489**

AN ORDINANCE AMENDING SECTION 8 OF CHAPTER 11 OF THE  
REVISED ORDINANCES OF 1996 GRANTING THE LICENSE  
COMMISSION THE AUTHORITY TO REGULATE THE OPERATION  
OF PARKING LOTS

Be it ordained by the City Council of the City of Worcester, as follows:

Section 8 of Chapter 11 of the Revised Ordinances of 1996 is hereby amended by adding the following paragraphs to the existing section.

The following paragraphs shall be added following paragraph (e):

(f) No person shall operate a public parking lot under any license granted under this section unless such lot shall conform to the conditions imposed upon the license by the License Commission. Such conditions include but are not limited to the regulation of: hours of operation; days of operation; notification of parking lot patrons of the towing policy, including towing fees and payment practices; capacity; and security, including adequacy of lighting.

(g) The License Commission may from time to time promulgate rules and regulations for the administration and enforcement of this section.

(h) In addition to any other penalty which may be imposed by the enforcing persons for a violation of this section, the License Commission may, after notice to the licensee and reasonable opportunity to be heard by them, modify, suspend, cancel, revoke or declare forfeited any license granted under this section, or may refuse to issue, transfer, renew or reissue a license under this section. No portion of the fee paid for a public parking lot license will be refunded upon adverse action by the License Commission.

**In City Council August 18, 1998**

**Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**

***David J. Rushford***

**City Clerk**

**Amendment 7524**

AN ORDINANCE AMENDING SECTION 2 OF CHAPTER 11 OF THE  
REVISED ORDINANCES OF 1996 CONSOLIDATING THE LICENSING OF  
ENTERTAINMENT IN THE LICENSE COMMISSION

Be It ordained by the City Council of the City of Worcester as follows:

Section 2 of Chapter 11 of the Revised Ordinances of 1996 is hereby deleted and the following new Section 2 is inserted in its place.

**§ 2. Entertainment**

(a) No person shall allow the use of any automatic amusement device without first receiving a license from the License Commission.

(b) No inn holder, common victualler, keeper of a tavern, or person owning, managing, or controlling any club, restaurant or other establishment required to be licensed under section twelve of chapter one hundred and thirty-eight or under section two, twenty-one A or twenty-one E of chapter one hundred and forty, and no person owning, managing, or controlling any concert, dance exhibition, cabaret or public show of any description to be conducted on any premises required to be licensed under the sections described above, shall, as a part of its usual business, offer to view, set up, set on foot, maintain or carry on a concert, dance exhibition, cabaret or public show of any description, unless and until a license therefore has been issued by the License Commission.

(c) No person owning, managing, or controlling any establishment not otherwise governed by section twelve of chapter one hundred and thirty-eight or under section two, twenty-one A or twenty-one E of chapter one hundred and forty, and no person owning, managing, or controlling any concert, dance exhibition, cabaret or public show of any description to be conducted on any premises not otherwise governed by the sections described above, shall, as a part of its usual business, offer to view, set up, set on foot, maintain or carry on a concert, dance exhibition, cabaret or public show of any description, unless and until a license therefore has been issued by the License Commission.

(d) No person owning, operating, managing or controlling any theatrical exhibition, public show, public amusement or exhibition of any description, to which admission is obtained upon payment of money or upon the delivery of any valuable thing, or which, after free admission, amusement is furnished upon a deposit of money in a coin, card or currency controlled apparatus, shall conduct such entertainment unless and until a license therefore has been issued by the license commission.

(e) The License Commission after notice to the licensee and reasonable opportunity to be heard by them, may modify, suspend, revoke or cancel any license issued under this section upon satisfactory proof that the licensee, or the licensee's employees, agents or servant, has violated or permitted a violation of any condition thereof, or any law of the commonwealth. Nothing in this section shall diminish the authority of the Department of Public Health and Code Enforcement or the Chief of Police to pursue any other remedy available to them to address violations of city ordinances or laws of the commonwealth.

(f) The License Commission shall have the authority to adopt any rules and regulations it deems necessary to implement this section.

(g) The fee for each such license issued under this section shall be set in accordance with Chapter 2, S24 of these ordinances.

In City Council December 1, 1998

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 7595**

AN AMENDMENT TO THE ORGANIZATION PLAN FOR THE  
LICENSE COMMISSION RELATIVE TO BEANO LICENSES

Be it ordained by the City Council of the city of Worcester, as follows:

1. Section Four of Article Twenty-Six of Part II of the Revised Ordinances is hereby amended by inserting a new subsection "(i)" as follows:

(i) to perform all actions described in Section Thirty-Eight of Chapter Ten of the General Laws concerning local approval of beano license applications.

In City Council March 23, 1999

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*  
City Clerk

**Amendment 7663**

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE REVISED ORDINANCES OF 1996 RELATIVE  
TO SMOKING IN RESTAURANTS AND PUBLIC PLACES

Be it ordained by the city council of the city of Worcester, as follows:

Chapter eight of the Revised Ordinances of 1996 is hereby amended by inserting Section 3A:

**Section 3A Smoking in Restaurants**

(a) **Declaration of Findings and Policy.** There exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose, and throat; and the harmful effects of tobacco smoke are not confined to smokers but also cause severe discomfort and illness to nonsmokers; and environmental tobacco smoke [hereinafter *E.T.S.*], which includes both exhaled smoke and the side stream smoke from burning cigarettes, causes the death of 53,000 Americans each year; and the Environmental Protection Agency (1993) has designated environmental tobacco smoke to be a Class A carcinogen similar to radon and asbestos with no known safe levels of exposure; now, therefore it is the policy of the city council of the city of Worcester to guarantee the right of non-smokers to breathe smoke-free air and that the need to breathe smoke-free air shall have priority over the desire to smoke and establishes this ordinance to protect and improve the public health and welfare by limiting smoking in restaurants.

(b) **Definitions.** For purposes of this section,

**"bar"** shall mean an establishment whose business is the serving of alcoholic beverages for consumption by guests on the premises, without food..

**"bar area of a restaurant"** shall mean the area of a restaurant where alcoholic beverages are served for consumption by guests on the premises and the service of food is incidental..

**"cigar shop/emporium"** shall mean an establishment whose business is the serving of cigars for smoking by guests on the premises and in which the serving of food and/or alcohol is only incidental to the smoking of cigars.

**"city"** shall mean the city of Worcester.

**"commissioner"** shall mean the commissioner of public health and code enforcement of the city of Worcester.

**"food service establishment"** shall mean a place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes such places regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes restaurants as defined herein. The term does not include residential kitchens, retail food stores, or supply vehicles.

**"food service permit"** shall mean the document issued by the commissioner of public health and code enforcement of the city of Worcester which authorizes a person to operate a food service establishment.

**"food service permit holder"** shall mean a person to whom the commissioner of public health and code enforcement of the city of Worcester issued a food service permit.

**"person"** shall mean any person, firm, partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the agents or designees of any of the foregoing.

**"pouring licenses"** shall mean a license approved by the Massachusetts Alcoholic Beverages Control Commission, as defined in MGL Chapter 140, section 138, that permits the sale of alcoholic beverages for consumption on the premises.

**"public place"** shall mean any building or facility, any area enclosed and open to the general public including but not limited to, libraries, museums, theaters, auditoriums, in door sports arenas and/or recreational facilities, inns, hotel and motel lobbies, shopping malls, public restrooms, lobbies, staircases, halls, exits, entrances, elevators accessible to the public, and licensed child-care locations.

**"retail store"** any establishment whose primary purpose is to sell or offer for sale to consumers, but not for resale, any goods or personal services, wares, merchandise, articles or other things, including supermarkets and grocery stores, . "Retail store" shall not include restaurants as defined herein.

**"restaurant"** shall mean any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and other eating establishment which gives or offers food for sale to the public, guests, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

**"restaurant/nightclub"** shall mean a restaurant with a valid pouring license that suspends it's food service after ten o'clock p.m. and then whose business is the serving of alcoholic beverage for consumption by guests on the premises.

**"seating capacity"** shall mean the capacity designated on the occupancy permit of a food service establishment.

**"single-room restaurants"** shall mean a restaurant, which gives or offers food for sale to the public which is physically limited to one room, not subdivided by any floor-to-ceiling physical barriers, and not including restrooms or separate rooms for areas not open to the public such as kitchens.

**"smoking"** shall mean inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other tobacco product in any form.

(c) **Posting Notice of Prohibition**

- (1) Every person having control of premises upon which smoking is prohibited by and under the authority of this ordinance shall conspicuously display upon the premises "No Smoking" signs or the international "No Smoking" symbol ( consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it).

(d) **Smoking Prohibited**

- (1) No person shall smoke nor shall any person, employer, or other person having control of the premises upon which smoking is prohibited by this ordinance, or the agent or designee of such person, permit a person to smoke in a restaurant and/or retail store or or public place as defined herein except as otherwise provided in paragraph (e) of this ordinance.
- (2) No person shall smoke in any place in which a sign conforming to the requirements of paragraph (c) of this ordinance is posted. No Person shall remove a sign posted under the authority of paragraph (c) of this ordinance.

(e) **Exceptions**

- (1) Notwithstanding the provisions of paragraph (d) of this ordinance, smoking shall be permitted in the following places and/or circumstances:
- (a) Hotel and motel conference/meeting rooms while these places are being used for private functions;
  - (b) Bars;
  - (c) The Bar Area of a Restaurant provided the restaurant owner holds a valid pouring license and provided further that:
    - i) the perimeter of a bar area of a restaurant in which smoking is permitted shall be enclosed by a floor-to-ceiling physical barrier excluding entrances;
    - ii) the bar area of a restaurant in which smoking is permitted shall ventilate air from the bar area of the restaurant to the exterior of the restaurant;
    - iii) the bar area of the restaurant shall be marked with signs that warn patrons of the dangers of exposure to second hand smoke, and no person under the age of eighteen (18) years of age shall be seated or served.
    - iv) the bar area of the restaurant shall not exceed:
      - aa. thirty-three percent (33%) of the total combined seating capacity of the dining area of the restaurant and the bar area of the restaurant, or
      - bb. thirty-three percent (33%) of the total combined square footage of the dining area of the restaurant and the bar area of the restaurant.

- (d) A single-room restaurant with a valid pouring license, established as such as of the passage of this ordinance, may elect to set aside a portion of the room for smoking if the ventilation system is configured to move air, at a rate of 30 cubic feet per minute, from the non-smoking section of the room, through to the smoking section of the room, then to exit the building, ensuring annually, through a letter submitted to the Worcester Department of Public Health and Code Enforcement from a certified heating, ventilation and air-conditioning engineer attesting that the ventilation system is adequate to meet the provisions of this regulation and further provide a minimum six (6) foot buffer space between the smoking and non-smoking section.
- i) the smoking section of the room shall be marked with signs that warn patrons of the dangers of exposure to second hand smoke and
  - ii) the smoking section of the room shall not exceed:
    - aa. thirty-three percent (33%) of the total seating capacity of the dining area of the restaurant or
    - bb. thirty-three percent (33%) of the total combined square footage of the dining area of the restaurant.
- (e) A Restaurant without a valid pouring license, established as such as of the passage of this ordinance, may elect to set a side a portion of the restaurant for smoking between the hours of ten o'clock pm and five o'clock am and not admit persons under eighteen (18) years of age and a six (6) foot buffer is provided between the non-smoking and smoking sections and if the ventilation system is configured to move air , at a rate of thirty (30) cubic feet per minute from the non-smoking section of the room through the smoking section of the room , then to exit the building, ensuring annually, through a letter submitted to the Worcester Department of Public Health and Code Enforcement from a certified heating, ventilation engineer attesting that the ventilation system is adequate to meet the provisions of this regulation..
- i) the smoking section of the room shall be marked with signs that warn patrons of the dangers of exposure to second hand smoke and
  - ii) the smoking section of the room shall not exceed:
    - aa. thirty-three percent (33%) of the total seating capacity of the dinning area of the restaurant.
    - bb. thirty-three percent (33%) of the total combined square footage of the dinning area of the restaurant.

- (f) Restaurant/Nightclub that suspends it's food service after ten o'clock p.m. and does not permit persons under twenty-one (21) years of age and then whose business is devoted to the serving of alcoholic beverages for consumption by guests on the premises and the serving of food is incidental.
- (g) Cigar Shops/Emporium, provided such establishments prohibit the entry of all persons under the age of eighteen (18) years old at all times, and that such establishments post signs that warn patrons of the dangers of exposure to secondhand smoke.
- (h) **Conflict with Other Laws or Ordinances**
  - (1) Notwithstanding the provisions of the foregoing paragraph (e) of this ordinance, nothing in this ordinance shall be deemed to amend or repeal applicable fire, health or other ordinances, regulations rules, or laws so as to permit smoking in areas where it is prohibited by such fire, health or other regulations, rules, or laws.
- (i) **Violations**
  - (1) Any person who violates this ordinance shall be subject to a fine in an amount of one hundred dollars (\$100) for a first offense, two hundred dollars (\$200) for a second offense and three hundred dollars (\$300) for a third or subsequent offense.
  - (2) Whenever the commissioner determines that a food service permit holder has committed three violations of this ordinance within any three hundred and sixty-five day period, calculated from the date of the first violation, the commissioner shall suspend or revoke said food service permit. The commissioner shall provide notice to the food service permit holder of the intent to suspend or revoke said permit, which notice shall contain the reasons therefore and establish a time and date for a hearing before the commissioner, which date shall be no earlier than seven days after the date of said notice. The food service permit holder shall have the opportunity to be heard at such hearing and shall be notified of the decision of the commissioner and the reasons therefore, in writing. The food service establishment shall be closed during said suspension or revocation. Failure to close the food service establishment during the period of said suspension or revocation of the food service permit shall constitute a separate violation of this section, each day constituting a separate offense.

(j) **Enforcement**

- (1) As an alternative to initiating criminal proceedings, violations of this ordinance may be enforced in the manner provided in MG.L. c. 40, Sect. 21D, by commissioner of public health and code enforcement of the city of Worcester or its agents. Any fines imposed under the provisions of this ordinance shall be returned to the city of Worcester for such use as the city may direct.
- (2) Any citizen who desires to register a complaint under this ordinance may request that the commissioner of public health and code enforcement initiate enforcement.

(k) **Effective Date**

- (1) This ordinance shall become effective on July 1, 2000.

In City Council June 29, 1999

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 7701**

AN ORDINANCE AMENDING CHAPTER FIFTEEN OF THE REVISED  
ORDINANCES OF 1996 RELATIVE TO THE NON-CRIMINAL DISPOSITION OF VIOLATIONS OF  
THE TOBACCO CONTROL ORDINANCES

Be it ordained by the city council of the city of Worcester as follows:

Section two of chapter fifteen of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting subsections (b)(xi) and (b)(xii) of said section in their entirety and inserting in lieu thereof the following new subsections (b)(xi) and (b)(xii):

(xi) sale of tobacco products without a tobacco sales permit - chapter eight, section 3(e)(1)

penalty: \$100.00  
enforcing person: commissioner of public health and code enforcement

(xii) violation of any provision of the tobacco control ordinance, chapter eight, section 3, except subsection (e)(1), and violations of any provisions of chapter 8, section 3A

penalty:  
first offense: \$100.00  
second offense \$200.00  
third offense \$300.00  
enforcing person: commissioner of public health and code enforcement

In City Council August 17, 1999  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7774**

AN ORDINANCE AMENDING CHAPTER ELEVEN OF THE  
REVISED ORDINANCES OF 1996

Be it ordained by the city council of the city of Worcester as follows:

Chapter 11 of the Revised Ordinances of 1996 is hereby amended by inserting the following new section 8A:

**Section 8A. Shooting Gallery Licenses**

(a) No person shall operate a shooting gallery unless a license is issued therefor by the License Commission in accordance with Mass. Gen. L. ch. 140, sec. 56A. The License Commission may grant, suspend and revoke at pleasure a license to conduct a shooting gallery upon such terms and conditions as it deems proper.

(b) The term "shooting gallery" shall mean a public resort equipped with appliances for target shooting, whether or not such public resort is incorporated under the laws of the commonwealth for the possession, storage or use of large or non-large capacity weapons or ammunition therefor.

(c) All applications for licenses under this provision shall be made on a form or forms to be prescribed by the License Commission and shall include a sworn statement by the applicant giving the names and addresses of all persons having a direct or indirect beneficial interest in the license. Every applicant shall be at least twenty-one (21) years of age, of good character as determined by the License Commission, and the holder of a valid class A firearms license issued pursuant to Mass. Gen. L. ch. 140, sec. 131.

(d) The fee for each original license for a shooting gallery shall be one hundred twenty (\$120.00) dollars. The fee for an annual license renewal shall be one hundred five (\$105.00) dollars. No license shall be transferred without the prior consent of the License Commission and all licenses shall be posted on the licensed premises so that the same may be easily observed.

(e) Every license issued under this section shall expire on May first following the date of issue, unless sooner revoked.

(f) No license shall be issued under this provision until a bond and insurance in amounts set forth hereinafter are provided.

(i) No license shall be issued under this provision until a bond, approved by the city treasurer, is filed with the city clerk. Said bond shall be in the sum of five thousand (\$5,000.00) dollars to secure the payment of any injuries or damages that may result from the operation of a licensed shooting gallery.

(ii) No license shall be issued under this section unless the applicant furnishes the License Commission with current certificates of liability insurance to provide security for the liability of the licensee in amounts not less than one million dollars (\$1,000,000.00) for personal injury and five hundred thousand (\$500,000.00) dollars for property damage. Said insurance in the amount stated above shall be maintained in full force for the entire license term. Failure to maintain insurance in the amount stated above during the license term shall result in immediate revocation of the license.

(g) Licensed premises shall be closed between the hours of eleven o'clock post meridian (11:00 p.m.) and ten o'clock ante meridian (10:00 a.m.) every day. All persons shall be off the premise by 11:30 p.m. The licensee, facility manager or employees of the licensee may be on the premises after business hours but only if they are actively engaged in cleaning, making repairs to, or providing security for such premises, or opening or closing the premises for the business day. No other persons, friends, or relatives may be on the premises with the licensee, facility manager, or licensee's employees during the hours when the public is excluded from the premises.

h) No person eighteen years of age or over shall engage in target shooting or enter a live fire area unless such person holds a valid firearm identification card or firearms license issued under Massachusetts General Laws, chapter 140, or is under the direct supervision of a person who holds a valid Class A or Class B firearms license issued under section 131 of said chapter 140, or is authorized to engage in target shooting as otherwise provided by law.

No person under eighteen (18) years of age shall engage in target shooting or enter a live fire area unless said person provides written consent from his parent or legal guardian authorizing him to engage in target shooting and is under the direct supervision of a person who holds a validly issued Class A or Class B firearms license issued under section 131 of chapter 140 or, unless said person holds either (i) a validly issued firearm identification card issued under section 129B of chapter 140 of the Massachusetts General Laws or (ii) a valid hunting license issued under chapter 131 of the general laws and is under the direct supervision of a person who holds a valid Class A or Class B firearms license issued under section 131 of chapter 140, or is authorized to engage in target shooting as otherwise provided by law.

(i) The Licensee shall be responsible for determining the age of patrons and ensuring compliance with this section.

(j) Licensee shall ensure adherence to the following rules.

(i) No targets shall depict human images, human effigies, or human silhouettes, unless said target is used by public safety personnel performing in line with their official duties.

(ii) All persons shall wear eye and ear protection at all times while in the live fire area.

- (iii) No person shall fire other than in designated fire lanes. Any person aiming or pointing a loaded or unloaded weapon at another person or object outside of the firing range lane shall be immediately expelled from the premise.
- (iv) No person shall exit the firing range area until and unless his firearm is completely unloaded.
- (v) The Licensee shall ensure that all weapons not in use shall be safely stored and locked and shall only be shown or handled by legally authorized persons in the presence of and under the direct supervision of an employee or agent of Licensee who holds a valid class A firearms license.
- (vi) The licensed premise shall be alarmed in a manner acceptable to the License Commission and the alarm system shall be activated during all non-business hours.
- (vii) After business hours, all weapons shall be stored in a locked and alarmed vault.

(k) Each licensee shall designate, immediately, in writing, a full-time facility manager, satisfactory to the License Commission, who shall have authority and control of the licensed premises. Said facility manager shall be a suitable person as determined by the License Commission and shall be the current holder of a valid class A firearms license issued under Mass. Gen. L. ch. 140, sec. 131. The License Commission shall be notified immediately, in no event more than twenty-four hours, after the removal or vacancy of an approved facility manager. Licensee shall also maintain a current list of all employees and shall have said list available at all times for inspection by a police office or any authorized agent of the License Commission.

(l) The licensee shall be responsible for ensuring that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Licensee shall be held responsible for safety infractions and legal violations occurring on the licensed premises. The Licensee shall report any violation of state or federal law or these rules and regulations to the Worcester Police Department within a reasonable time but in no event more than twelve (12) hours after the occurrence of said violation.

(m) Licensee shall keep all entrance and exit doorways in a closed position at all times when not actively being used by persons to enter or exit the establishment. Licensee shall provide adequate lighting within and outside the premises. Licensee shall not alter the premises without the prior approval of the License Commission.

(n) The licensed premises shall be subject to inspection at all times by the police or authorized agents of the License Commission.

(o) No person shall operate a shooting gallery under any license granted under this section unless such shooting gallery conforms to the conditions imposed by the License Commission. Such conditions include but are not limited to ensuring adequate security for the premises, including the firearms contained thereon.

(p) The License Commission may from time to time promulgate rules and regulations for the administration and enforcement of this section.

(q) Any person operating a shooting gallery without a license issued under this section or in violation of any laws, or rules or regulations, or condition imposed by the License Commission shall be assessed a fine of one hundred (\$100.00) dollars. Each day of unlicensed operation shall constitute a separate violation.

(r) In addition to any other penalty that may be imposed by the enforcing persons for a violation of this section, any federal, state or local rule or regulation or any license condition imposed by the License Commission, the Commission may, after notice to the licensee and a reasonable opportunity to be heard by them, modify, suspend, cancel, or otherwise revoke any license granted under this section, or may refuse to issue, renew or reissue a license under this section. The License Commission shall refund no portion of the fee paid for a shooting gallery license upon adverse action.

In City Council December 14, 1999  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
**David J. Rushford**  
City Clerk

**Amendment 7775**

AN ORDINANCE ADDING A NEW HEADING AND SECTION TO  
CHAPTER 8 OF THE REVISED ORDINANCES OF 1996  
REGULATING THE HOURS OF CONSTRUCTION

Be it ordained by the City Council of the City of Worcester, as follows:

Chapter 8 of the Revised Ordinances of 1996 is hereby amended by adding the following Section Heading following the current Section 33, and adding a new Section 34 to the Section.

**NOISE CONTROL**

§ 34. Regulation of Construction Noise

(a) It shall be unlawful for any person, firm, corporation, partnership, or other entity to operate powered construction equipment or to build, erect, construct, demolish, alter, repair, excavate or engage in hoisting, grading, site work, including tree and brush removal, dredging or pneumatic hammering, or to deliver construction equipment and/or supplies to the site on any building, road, tower, parking lot, machine, pipe, sewer, sidewalk, or any other construction project (hereafter collectively the "construction project"), except between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and Saturday, and between the hours 9:00 a.m. and 7:00 p.m. on Sundays except for "emergency work" which is performed in the interest of public safety or welfare and for which a permit has been issued by the commissioner of Public Health and Code Enforcement (the Commissioner).

(b) Emergency work permits may be issued in:

1) cases of urgent necessity and for the interests of health, safety and convenience of the public. The Commissioner shall whether the reasons given for the urgent necessity are valid and reasonable, and whether the health, safety and convenience of the public will be protected or better served by granting the permit requested and whether the manner and amount of loss or inconvenience to the party in interest imposes a significant hardship; or,

2) cases where because the location and nature of the work the noise caused by said work will not be heard by anyone not working on the project. The Commissioner shall consider whether supplying machinery and/or materials to the construction project site will cause unreasonable noise along the routes to the construction project site, and whether such activity will impact residential neighborhoods, and shall not grant any emergency work permit unless unreasonable noise in residential areas will be prevented.

(c) Emergency work permits may be issued to the general contractor on a blanket basis that applies to all of the contractors working on the job, or may be issued to specific contractors on the construction project, at the discretion of the Commissioner. Emergency work permits may be issued for not more than one week at a time, and may be renewed for additional one week periods at the discretion of the Commissioner.

(d) Prior to issuing or reissuing said emergency work permit the Commissioner shall review the work being conducted and all attendant circumstances, and shall prescribe whatever limitations possible to minimize the generation of noise, and to minimize the impact of noise on the neighbors to the construction project.

(e) Emergency repair work performed by the Department of Public Works and/or any public utility is exempt from this section.

(f) The fee for each such Emergency work permits issued under this section shall be set in accordance with Chapter 2, § 24 of these ordinances.

(g) On any project for the construction, reconstruction, installation, demolition, maintenance or repair of any building, or public work, to be funded in whole or in part by city funds, or funds which, in accordance with a federal or state grant, program, or otherwise, the city expends or administers, or any such project to which the city is a signatory to the contract therefor, the provisions of this section shall apply and the same shall be referenced in every invitation to bid for such project and, the following paragraphs shall be contained in every resulting contract therefrom:

"It shall be a material breach of this contract if the contractor and each subcontractor on shall not at all times adhere to the provisions of § 34 of chapter eight of the Revised Ordinances of the city, by limiting their on-site, noise producing construction and related work to the hours specified by the Ordinance.

A waiver from the above requirements may, in certain circumstances, be granted in accordance with subsections (b), (c) and (d) of § 34 of chapter eight of the Revised Ordinances of the city."

(h) the Commissioner of the Department of Public Health and Code Enforcement shall have the authority to adopt any rules and regulations he or she deems necessary to implement this section.

(i) Nothing in this section shall be deemed to prevent an individual from performing work on his or her own property, so long as the work is being done by the owner of the property or by direct relative(s) of the owner, and said work is not being done for profit.

(j) This ordinance may be enforced by any Building Inspector and/or Health and Code Inspector assigned by the Commissioner of the Department of Public Health and Code Enforcement and the Police Department.

(k) Any violation of this ordinance by any person, firm, corporation, partnership, or other entity, shall be individually punished with a fine of \$100.00. Each day upon which a violation of this ordinance occurs shall be considered a separate violation. Employers shall be deemed the violator for violations committed by their employees.

In City Council May 23, 2000  
Passed to be ordained by a yea and nay vote of Six Yeas and Five Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7776**

AN ORDINANCE AMENDING PART II, ARTICLE SEVEN,  
SECTION NINE OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO THE FEES OF THE CITY CLERK'S OFFICE

Be It Ordained by the City Council of the city of Worcester as follows:

Section Nine of Article Seven, Part II, of the Revised Ordinances of 1996 is hereby amended by deleting the following words and figures in said Section 9 - Schedule of Fees:

- |     |   |         |
|-----|---|---------|
| 2.  | for entering in person at the Clerk's Office<br>an amendment of a record of the birth of a<br>child born out of wedlock subsequently legitimized. | \$10.00 |
| 3.  | for entering through regular U.S. Mail an<br>amendment of a record of the birth of a<br>child born out of wedlock subsequently legitimized.       | \$15.00 |
| 4.  | for correcting errors in a record of birth<br>in person at the Clerk's Office.  | \$10.00 |
| 5.  | for correcting errors in a record of birth<br>through regular U.S. Mail.  | \$15.00 |
| 14. | for correcting errors in a record<br>of death in person at the Clerk's Office.  | \$10.00 |
| 15. | for correcting errors in a record of<br>death through regular U.S. Mail.  | \$15.00 |
| 24. | for correcting errors in a record of<br>marriage in person at the Clerk's Office.   | \$10.00 |
| 25. | for correcting errors in a record of marriage<br>through regular U.S. Mail.   | \$15.00 |

And inserting in lieu thereof the following:

- |    |   |         |
|----|---|---------|
| 2. | for entering in person at the Clerk's Office<br>an amendment of a record of the birth of a<br>child born out of wedlock subsequently legitimized. | \$25.00 |
| 3. | for entering through regular U.S. Mail an<br>amendment of a record of the birth of a<br>child born out of wedlock subsequently legitimized.       | \$25.00 |
| 4. | for correcting errors in a record of birth<br>in person at the Clerk's Office.  | \$25.00 |

- |     |  |         |
|-----|--|---------|
| 5.  | for correcting errors in a record of birth through regular U.S. Mail.          | \$25.00 |
| 14. | for correcting errors in a record of death in person at the Clerk's Office.    | \$25.00 |
| 15. | for correcting errors in a record of death through regular U.S. Mail.          | \$25.00 |
| 24. | for correcting errors in a record of marriage in person at the Clerk's Office. | \$25.00 |
| 25. | for correcting errors in a record of marriage through regular U.S. Mail.       | \$25.00 |

**In City Council** **January 11, 2000**  
**Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Amendment 7804**

AN ORDINANCE AMENDING CHAPTER THIRTEEN OF THE  
REVISED ORDINANCES OF 1996

Be it ordained by the city council of the city of Worcester, as follows:

I. Chapter 13, Section 1, subsection (a) of the Revised Ordinances of the City of Worcester (1996) be and is hereby amended by inserting the following definition after the definition "bicycle" and before the definition "bus stop";

"bus" - Any motor vehicle operated for the carriage of passengers for hire in such a manner as to afford a means of transportation by indiscriminately receiving and discharging passengers along the route on which the vehicle is operated or may be running, or for transporting passengers for hire as a business, or under a charter license, special service or school service. Excluding passenger or station wagon type motor vehicles whose gross weight is less than five thousand pounds.

II. Chapter 13, Section 37, subsection (p) of the Revised Ordinances of the City of Worcester (1996) be and is hereby amended by deleting the paragraph therein and inserting the following in lieu thereof:

No person shall park a bus, commercial vehicle or trailer having a capacity of one ton or over on any street where the parking is permitted for a period of time longer than one hour between the hours of 1:00 a.m. and 6:00 a.m. of any day, or any time on Sunday, except that such vehicles or trailers may be parked for periods in excess of this restriction while actually being loaded or unloaded.

In City Council February 29, 2000

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*  
City Clerk

**Amendment 7805**

AN ORDINANCE AMENDING CHAPTER TWO, SECTION THIRTY-FIVE  
OF THE REVISED ORDINANCES OF 1996 RELATIVE TO THE  
RESPONSIBLE EMPLOYER PLAN FOR THE CITY OF WORCESTER

Be it Ordained by the City Council of the City of Worcester as follows:

1. Section 35 of Chapter Two of the Revised Ordinances of 1996 is hereby amended by inserting in subsection (d), line 4, after the word "time," the phrase ",or fails to comply with the weekly certification obligations described in subsection (c) of this subsection."

2. Section 35 of Chapter Two of the Revised Ordinances of 1996 is hereby amended by deleting subsection (d)(4) in its entirety and inserting a new subsection (d)(4) as follows:

"(4) recovery by the city from the general contractor of 1/10 of 1% of the general contract or \$1,000.00, whichever sum is greater, in the nature of liquidated damages assessed for each week that the general contractor is in non-compliance or, if a subcontractor is in non-compliance, the recovery by the city from the general contractor as a back-charge against the subcontractor of 1/10 of 1% of the subcontract price, or \$400.00 whichever sum is greater, in the nature of liquidated damages assessed for each week that the subcontractor is in non-compliance."

**In City Council February 29, 2000**

**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**

***David J. Rushford***

**City Clerk**

Amendment 7806

AN ORDINANCE AMENDING CHAPTER TWO, SECTION THIRTY-TWO OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO THE  
JOBS REQUIREMENT FOR CITY RESIDENTS PROGRAM

Be it Ordained by the City Council of the City of Worcester as follows:

1. Section 32 of Chapter Two of the Revised Ordinances of 1996 is hereby amended by deleting in the last line of subsection (c) the phrase, "at least once per month," and inserting in lieu thereof the phrase "on a quarterly basis."
2. Section 32 of Chapter Two of the Revised Ordinances of 1996 is hereby amended by deleting in the last line of subsection (d) the phrase, "at least once per month" and insert in lieu thereof the phrase, "whenever changes are made thereto."

In City Council February 29, 2000

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*  
City Clerk

**Amendment 7807**

AN ORDINANCE AMENDING CHAPTER FIVE OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO SEWERS  
AND STORM WATER MANAGEMENT

Be it ordained by the city council of the city of Worcester, as follows:

1. Section two of chapter five of the Revised Ordinances of 1996 is hereby amended by deleting paragraph (a) thereof and inserting the following new paragraph (a) in lieu thereof:

"(a) No unauthorized person shall uncover, make any connections with or any opening into, use, repair, alter, or disturb any public sewer or appurtenance thereof, or any building sewer or other private sewer that connects to a public sewer without a sewer connection permit issued by the commissioner."

2. Section seven of chapter five of the Revised Ordinances of 1996 is hereby amended by deleting it in its entirety and inserting the following in lieu thereof:

**§ 7. Costs of Connection**

(a) Except as set forth in the following subsections (b), (c), (e) and (f), all costs and expense incident to the construction and connection of the building sewer or other private sewer shall be borne by the owner. The owner shall otherwise indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation and connection of the building sewer or other private sewer.

(b) For any connection, installation, alteration, repair or other disturbance of a building sewer or other private sewer connecting into a public sewer, which has been performed under a valid sewer connection permit and was inspected and approved by the city, including, where applicable, a water dye test, the homeowner shall not be personally liable for the cost to rectify any illicit connection between the sanitary and surface sewer systems. In no event, however, shall the licensed drainlayer who performed such work be relieved of responsibility, but shall rectify the illicit connection, at its expense, upon order of the commissioner. If the licensed drainlayer shall fail or refuse to rectify the illicit connection, the city shall cause the work to be performed, and the cost thereof shall be assessed against the licensed drainlayer.

(c) Where an illicit connection between the sanitary and surface sewer systems is the result of work performed by a licensed plumber under a validly issued plumbing permit, the homeowner shall not be personally liable for the cost to rectify such illicit connection. In that event, the commissioner shall notify the commissioner of public health and code enforcement, who shall order the licensed plumber to rectify the illicit connection at its expense. If the licensed plumber shall fail or refuse to rectify the illicit connection, the city shall cause the work to be performed, and the cost thereof shall be assessed against the licensed plumber.

(d) The provisions of paragraphs (b) and (c) shall apply to all permitted work occurring after March 1, 2000.

(e) The commissioner is authorized to establish a program to provide limited refunds, not exceeding fifty percent, of the costs incurred by building owners who paid to rectify an illicit connection that was installed prior to March 1, 2000. Any such program established hereunder shall conform to the following minimum requirements, and such other requirements as the commissioner deems advisable and not inconsistent herewith.

(i) Refunds shall be available only to a current property owner who paid for the prior repair work; and

(ii) Applicants for refunds must provide proof of payment to a Worcester licensed drainlayer, or a licensed plumber, as the case may be. Furthermore, the owner must provide copies of its documentation from the commissioner or the commissioner of public health and code enforcement ordering the owner to eradicate the illicit connection.

(iii) The original installation must have been done pursuant to a validly issued sewer connection permit.

(f) The commissioner is authorized to establish a program to provide limited refunds, not to exceed fifty percent, of the costs incurred by building owners to rectify any illicit connection made prior to March 1, 2000, which has not been corrected as of the date of enactment of this ordinance. The licensed drainlayer or licensed plumber, as the case may be, who performed the work shall rectify the illicit connection, at its expense, upon order of the commissioner or the commissioner of public health and code enforcement, as apt. If the licensed drainlayer or licensed plumber shall fail or refuse to rectify the illicit connection, the property owner shall cause the work to be performed. Provided the original installation was done pursuant to a validly issued sewer connection permit, the owner may seek partial reimbursement under the program, if any, established pursuant to this subsection.

**In City Council March 21, 2000**

**Passed to be ordained by a yea and nay of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
*David J. Rushford*  
**City Clerk**

**Amendment 7893**

AN ORDINANCE AMEND CHAPTER ELEVEN, SECTION 13a OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO TAG DAY PERMITS

Be it ordained by the city council of the city of Worcester as follows:

Chapter 11, Section 13A of the Revised Ordinances of 1996 is hereby amended as follows:

Subsection (a)(1) is deleted in its entirety and the following new subsection (a) (1) is inserted in lieu thereof:

(1) every such permit shall specify a particular calendar day and the particular hours of such day, which shall not exceed four consecutive hours between sunrise and sunset, during which solicitation may be conducted; and,

Subsection (a)(3) is deleted in its entirety and the following new subsection (a)(3) is inserted in lieu thereof:

3) each tag day permit shall list the specific intersections at which the organization is authorized to solicit and no solicitation shall be conducted at any intersection not so specified; and,

The following new subsection (a) (6) is inserted immediately following subsection (a)(5)(3):

6) The name of a representative of the organization seeking authorization to solicit shall be listed on the tag day permit and said representative shall be present at the specific intersection listed on the tag day permit during the authorized hours of solicitation to control and supervise persons soliciting for the organization. Said representative shall be twenty-one years of age or older. When solicitation is permitted at more than one specific intersection, designated supervisors, twenty-one years of age or over, shall be listed on the tag day permit and at least one such supervisor shall be present at each intersection listed on the tag day permit during the authorized hours of solicitation to control and supervise person soliciting for the organization.

In City Council May 2, 2000

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

**David J. Rushford**

City Clerk

**Amendment 7894**

AN ORDINANCE AMENDING CHAPTER SEVEN  
SECTION SIXTEEN OF THE REVISED ORDINANCES OF 1996

Be it Ordained by the City Council of the City of Worcester as follows:

1. Section Sixteen of Chapter Seven of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (c) thereof the numbers "\$1.89" and "\$2.99" as they appear therein and inserting in lieu thereof the numbers "\$1.96" and "\$3.06" respectively.

2. This amendment shall be effective as of July 1, 2000 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 1996.

**In City Council May 9, 2000**

**Passed to be ordained by a yea and nay vote of Nine Yeas and One Nay.**

**A Copy. Attest:**

**David J. Rushford, Clerk**

***David J. Rushford***

**City Clerk**

**Amendment 7915**

AN ORDINANCE AMENDING CHAPTER FIVE  
SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO SEWER USER CHARGE

Be It Ordained by the City Council of the City of Worcester as follows:

1. Section twenty-six of Chapter Five of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof the number "\$1.65" and inserting in lieu thereof the number "\$1.70".

2. This amendment shall be effective as of July 1, 2000 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 1996.

In City Council June 27, 2000  
Passed to be ordained by a yea and nay vote of Nine Yeas and One Nay.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 7931**

AN ORDINANCE AMENDING ARTICLE 21 OF PART II OF THE REVISED  
ORDINANCES OF 1996 SO AS TO CREATE AN INDEPENDENT  
OFFICE OF HUMAN RIGHTS

Be it ordained by the City Council of the City of Worcester, as follows:

Part II. Organization of City Agencies, Article 21.

§3. Personnel.

Delete the words "a Human Rights Office,"

§4. Head of Department.

Delete Item "(b). The Coordinator for Equal Opportunity and Affirmative Action shall serve as the Executive Director for the Human Rights Commission" and renumber the remainder of the section accordingly.

§5. Responsibilities of the Director.

Delete Items (g) and (h). "(g) to serve as City Manager's advisor on equal opportunity matters in conjunction with the Human Rights Commission; (h) to implement the policy of equal employment opportunity, as expressed in the City's Affirmative Action Plan" and substitute the following in its place:

Subsection "(g). To serve as the City Manager's advisor on equal opportunity matters, and to implement the policy of equal employment opportunity, as expressed in the City's Affirmative Action Plan;" and re-letter the remainder of the sections accordingly.

§6. Duties and Responsibilities of the Office.

Delete Item (m), sub-items (ii), (iii) as follows: "(ii), compliance of contract funded in whole or in part by City funds; (iii), fair housing," and renumber the rest of the items accordingly.

In City Council August 22, 2000

Passed to be ordained by a yea and nay vote of Nine Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 7950**

AN ORDINANCE AMENDING CHAPTER TWO OF THE  
REVISED ORDINANCES OF 1996 BY INSERTING A NEW SECTION  
RELATIVE TO BROWNFIELDS TAX ABATEMENT AGREEMENTS

Be It Ordained by the City Council of the city of Worcester, as follows:

Chapter Two of the Revised Ordinances of 1996 is hereby amended by inserting a new section, thirty-six, as follows:

**§ 36 - Brownfields Tax Abatement Agreements**

In exercising the authority granted by section fifty-nine A of chapter fifty-nine of the General Laws, the city manager shall negotiate and approve any agreement relative to the abatement of real estate taxes under said section fifty-nine A. The city manager may designate one or more of his or her subordinates to conduct such negotiations; provided however, that the city manager shall in all cases retain the authority to approve such agreements; and provided further that, the city assessor shall be a signatory to any such contract.

**In City Council September 26, 2000**

**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**

***David J. Rushford***

**City Clerk**

**Amendment 7982**

AN AMENDMENT TO THE ORGANIZATIONAL ORDINANCE OF THE EXECUTIVE OFFICE OF  
PLANNING & COMMUNITY DEVELOPMENT REMOVING THE FINANCE SECTION FROM  
ITS DUTIES AND RESPONSIBILITIES

Be it ordained by the City Council of the city of Worcester, as follows:

1. Section Six of Article Thirty of Part II of the Revised Ordinances of 1996 is hereby amended by deleting subsections (e), (h), (j), (k) and (l) in their entirety.

2. Section Seven of Article Thirty of Part II of the Revised Ordinances of 1996 is hereby amended by replacing the words "funds for the city" with the word "grants" in line two thereof and inserting in line three after the word "sources" the following: to be expended by the appropriate city agencies for the public purposes for which those agencies have been established and organized under the city charter.

In City Council November 14, 2000

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 7983**

AN ORDINANCE AMENDING CHAPTER THIRTEEN OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO  
THE WINTER PARKING BAN

Be it ordained by the city council of the city of Worcester, as follows:

1. Chapter 13 of the Revised Ordinances of the city of Worcester (1996) be and is hereby amended by deleting section forty three in its entirety and inserting the following in lieu thereof:

**§ 43. Winter Parking Ban**

(a) No person shall allow, permit or suffer a vehicle to be parked on any street in violation of the winter parking ban parking restrictions of this ordinance.

(b) The winter parking ban parking restrictions applicable to any particular location shall depend upon whether that location is governed by the "general even side ban" or listed within one of the "zone bans" as follows:

(1) *General Even Side Ban.* Parking is prohibited on all public streets on that side of which buildings are designated with even numbers, except as otherwise provided in subsections (2) - (5) below; provided, however, that, on any street or portion of street where there is "no parking anytime" on the odd numbered side and parking is normally permitted on the even numbered side, parking will continue to be permitted on the even numbered side.

(2) *Arterial Streets.* Parking is prohibited on both sides of any street listed under Zone A in Schedule VII, which is on file in the office of the city clerk and is specifically incorporated in this section by this reference.

(3) *Odd Side Ban.* Parking is prohibited on that side of the streets where buildings are designated by odd numbers on any street listed under Zone B in Schedule VII.

(4) *Both Sides Allowed.* Parking is permitted on both sides of any street listed under Zone C in Schedule VII.

(5) *Both Sides Prohibited.* Parking is prohibited on both sides of the streets listed under Zone D in Schedule VII.

(c) Each street listed within the categories contained in subsection (b) above shall be designated as either a "declared ban" or "permanent ban" street. On those streets designated as a declared ban street, the parking restrictions specified within each zone shall be in effect only during the dates and times specified in a "winter parking ban declaration" issued by the city manager or his delegate in accordance with subsection (d) hereof. On those streets designated as a permanent ban street, the parking restrictions shall be in effect as follows:

(1) Zone A. Between 2:00 a.m. and 6:00 a.m. during the period during December, January, February, March and April and whenever snow accumulates to a depth greater than two inches, or when ice or freezing rain require street clearing operations, or until the street has been cleared of snow or ice to within twelve inches of the curb line, or until street treatment operations have been completed.

(2) All Others. Between 2:00 a.m. and 6:00 a.m. during the period during December, January, February and March and whenever snow accumulates to a depth greater than two inches, or when ice or freezing rain require street clearing operations, or until the street has been cleared of snow or ice to within twelve inches of the curb line, or until street treatment operations have been completed.

(d) Whenever winter weather conditions require, or are likely to require, plowing, sanding, or other street clearing operations, the city manager, or his delegate, is hereby granted authority to issue a "winter parking ban declaration". Such declaration shall cause the parking prohibitions contained in subsection (b) of this section to become effective for the duration of such declaration. The city manager may delegate the authority to issue declarations under this section to any official under his jurisdiction by filing a letter with the city clerk giving notice of such delegation. The city manager may rescind any such delegation at any time, without notice, and shall as soon as practicable thereafter file a notice of such rescission with the city clerk. Any such declaration shall state the date and time when the full winter parking ban is to become effective and the official issuing said declaration shall give notice of the declaration to radio, television, cable and daily newspaper operators serving the city. The official issuing of any declaration shall also give notice thereof to the ranking officer on duty in the police department. The full winter parking ban shall remain in effect until the person possessing the authority to make declarations under this section rescinds such declaration. Notice of any such rescission shall be given in the same manner as the issuance of any such declaration. Each declaration and rescission made under this section shall be filed with the city clerk.

2. Chapter 13, Section 37, of the Revised Ordinances of the City of Worcester (1996) be and is hereby amended by deleting the text of subsection (n).

3. Chapter 13 of the Revised Ordinances of the City of Worcester (1996) be and is hereby amended by deleting Section 64 in its entirety.

**In City Council November 14, 2000  
Passed to be ordained by a yea and nay vote of Seven Yeas and Three Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Amendment 7987**

AN ORDINANCE AMENDING SECTION 37 OF CHAPTER 13  
OF THE REVISED ORDINANCES OF 1996 RELATIVE TO PARKING OF  
COMMERCIAL VEHICLES OR TRAILERS  
ON RESIDENTIALLY ZONED STREETS

Be It Ordained by the City Council of the City of Worcester as follows:

Chapter 13 of the Revised Ordinances of 1996 be and is hereby amended by deleting Section 37(p) in its entirety and inserting the following new Section 37 (p) in lieu thereof:

"(p) No person shall park a commercial vehicle or trailer having a gross weight of 11,000 pounds or more on any residentially zoned street where parking is permitted for a period of time longer than one hour between the hours of 1:00 A.M. and 6:00 A.M. of any day, or any time on Sunday, except that such vehicles or trailers may be parked for periods in excess of this restriction while actually being loaded or unloaded."

In City Council December 12, 2000

Passed to be ordained by a yeas and nays vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 8051**

AN ORDINANCE AMENDING CHAPTER 12 OF THE REVISED  
ORDINANCES OF 1996 RELATIVE TO  
SIDEWALK SNOW REMOVAL

Be it Ordained by the City Council of the City of Worcester, as follows:

Section 23 of Chapter Twelve of the Revised Ordinances of 1996 is hereby amended by deleting said section in its entirety and inserting in lieu thereof the following new section:

**§ 23 Sidewalk Snow Removal**

(a) The owner or occupant of land bounded by any street whereon there is a sidewalk shall within ten hours after snow ceases to fall, cause all snow to be removed from such sidewalk so far as the same shall abut on the land. Any person convicted of violating this section shall be punished by a fine of not more than fifty dollars.

(b) If the owner or occupant fails to remove such snow within the time provided in the preceding section, the city may remove or cause to be removed such snow and the owner or occupant shall reimburse the city for the expense incurred for such removal. The sum so expended may be recovered in an action of contract by the city against the owner or occupant.

(c) The owner or occupant of land bounded by any sidewalk located within the limits of state highways shall within ten hours after snow ceases to fall, cause all snow to be removed from such sidewalk so far as the same shall abut the land. Any person convicted of violating this section shall be punished by a fine of not more than fifty dollars.

(d) For purposes of this section, "sidewalk" shall mean any paved area that is immediately adjacent to the area of a public or private way designated for vehicular travel.

In City Council February 27, 2001  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8052**

AN ORDINANCE RELATIVE TO VACANT AND ABANDONED BUILDINGS

Be it ordained by the City Council of the City of Worcester as follows:

Chapter Nine of the Revised Ordinances of 1996 is hereby amended by inserting a new section fourteen, as follows:

**Section 14. Securing Abandoned or Vacant Buildings**

(a) Unsecured, vacant, and abandoned buildings present danger to the safety and welfare of public safety officers and the public, and, as such, constitute a public nuisance. This section is enacted to promote the health, safety and welfare of the public and to minimize hazards to public safety personnel inspecting or entering such buildings by preventing unauthorized persons from gaining entry to abandoned and vacant buildings.

(b) The following words and phrases, when used in this section, shall have the following meanings:

"**abandoned building**" - (1) a vacant building, the ownership responsibilities of which have been surrendered or relinquished, whether intentionally or by failure to occupy and maintain such property; or, (2) buildings, structures and premises for which the owner cannot be identified or located by delivery of certified mail at the last known or registered address, which persistently or repeatedly becomes unprotected or unsecured or, which is or has been occupied by unauthorized persons.

"**building**" - any combination of materials having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons or property, excluding accessory structures that are incidental to the principal structure located on the same lot, such as but not limited to dog houses and storage sheds; structures used on a seasonal basis such as vacation premises or resort facilities; and structures that are temporarily vacant for owner or tenant change or for remodeling.

"**certificate of building closure**" - certificate issued by the deputy commissioner to the owner of a vacant building or abandoned building upon compliance with the provisions of paragraph (c) herein.

"**deputy commissioner**" - the deputy commissioner of the Department of Public Health and Code Enforcement or his or her designee.

"**dangerous building**" - any unoccupied building that has been neglected and deteriorated; or abandoned, vacated, unused or open to weather to such an extent that it is a danger or potential danger to life or property.

"**fire chief**" - the chief of the Worcester Fire Department or his or her designee.

"**owner/person**" - (1) a person, trust, partnership, corporation or other entity capable of owning legal or equitable title to real property or capable of possessing legal or equitable interest in real estate or, (2) an authorized agent of the person or entity holding legal or equitable interest to real property, including but not limited to any person specified as a "contact person" pursuant to paragraph (c) (7) of this section.

"**unsecured building**" - any vacant or abandoned building not continuously secured, maintained, locked or boarded to prevent unauthorized entry or which fails to provide protection from weather damage.

"**vacant building**" - (1) unoccupied real property which is empty or remains empty for twenty-one consecutive days or longer of occupants having custody or legal right of entry to said property or, (2) any building which exhibits dilapidated walls, roof or doors which will fail to prevent the entry of a trespasser.

(c) Any owner/person who knows or reasonably should know that a building owned by said owner/person is or will become vacant or abandoned as those terms are defined herein or, any owner/person who intends to abandon or vacate a building owned or controlled by said owner/person shall forthwith:

1. Provide written notification to the deputy commissioner or the fire chief of the status of such building, including in such notice, the name, address and telephone number of the owner; the location of the building; the length of time the building has been vacant; the estimated time the building will remain vacant; and, the nature of the contents of the building; and,
2. As may be required by the fire chief, file one set of space utilization floor plans for said building with the fire chief and one set of said plans with the deputy commissioner. The owner shall certify space utilization plans as accurate twice annually, in January and July; and,
3. Remove from the building, to the satisfaction of the fire chief, hazardous material, as that term is defined in Massachusetts General Laws, chapter 21K, as that statute may be amended from time to time; and,
4. Secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board up Procedures or, provide twenty-four (24) hour on-site security personnel in the building. When a building is located within a complex of buildings owned by a single owner, twenty-four (24) hour on-site security shall be provided within the building or within the complex wherein the building is located; and,

5. Post "No Trespassing" signs on the building; and,
6. Provide the fire chief and deputy commissioner with the name, local address, and telephone number of a responsible person who can be contacted in case of emergency. The owner shall cause the name and contact number to be marked on the front of the building may be required by the fire chief or deputy commissioner; and,
7. Maintain liability insurance on the building and furnish the deputy commissioner with a copy of said certificate of insurance; and,
8. As may be required by the deputy commissioner, provide a cash bond acceptable to the deputy commissioner, in the sum of not less than five thousand dollars, to secure the continued maintenance of the building throughout its vacancy and remunerate the city for any expenses incurred in inspecting, securing, marking or making such building safe.

Upon satisfactory compliance with the above-provisions, the deputy commissioner shall issue a certificate of building closure. Said certificate shall be valid for the length of time prescribed by the deputy commission and noted thereon; provided however, the certificate shall be subject to continued compliance with the provisions of this section.

**(d)** Signs/Markings - When required pursuant to this section, signs or markings shall be applied on the front of the building, and elsewhere as the fire chief may require, at or above the second floor level and shall not be placed over doors, windows, or other openings. All signs/markings shall be visible from the street and, when requested by the fire chief, shall be placed on the sides and rear of the building. Signs/markings shall be a minimum of 24 inches by 24 inches, with lines of 2-inch width, and shall have a reflective background, or be painted with reflective paint, in contrasting colors. Signs/markings shall be applied directly on the surface of the building and shall state the date of posting and the most recent date of inspection by the fire chief and deputy commissioner.

**(e)** Enforcement - Failure to comply with any provision of paragraph (c) above shall be punished by a fine of three hundred (\$300.00) dollars with each day of violation constituting a separate offence. The deputy commissioner and/or the fire chief shall be enforcing persons for purposes of this section.

**(f)** The deputy commissioner or fire chief, upon being informed of the existence of an abandoned building or a vacant building without a certificate of building closure, shall cause notice to issue to the owner of the status of said building and shall order said person to immediately obtain a certificate of building closure. If any person fails to comply with said order, the fire chief or deputy commissioner may enter the premises to inspect, secure and mark the building.

(g) Expenses - The owner of an abandoned building or an owner of a vacant building who fails to obtain a certificate of building closure as required herein, shall be liable to the city for expenses incurred by the city in securing such building. The deputy commissioner shall provide the owner with a written statement of all costs associated with inspecting, securing and marking the building. If the owner fails to pay or reimburse the city within sixty days of notice of expenses, the city shall record the notice of claim in the Worcester District Registry of Deeds (or the Land Court Department) forthwith, establishing a lien on the property for the balance due.

(h) No owner of a vacant building or abandoned building shall allow said building to become or remain unsecured or dangerous. If it appears that any vacant or abandoned building is unsecured or dangerous, the deputy commissioner shall send written notification to the owner, requiring that the owner promptly secure or cause the building to be secured.

If the owner fails to comply with any order issued pursuant to this provision (h), the fire chief or deputy commissioner may immediately seek to obtain the proceeds secured by the bond filed pursuant to paragraph (c) (8) herein and shall enter upon the premises and cause the building to be inspected, secured and marked using said proceeds.

(i) All unsecured vacant and unsecured abandoned buildings shall be immediately referred to the deputy commissioner for a determination relative to whether the building is a nuisance or dangerous pursuant to chapter 139 and procedures promulgated thereunder.

(j) Notices required pursuant to this section shall be served in the following manner:

1. Personally on the owner, or the lessee, or the mortgagee, or the contact person specified pursuant to paragraph (c)(6); or,
2. Left at the last and usual place of abode of the owner, or contact person as specified pursuant to paragraph (c)(6), if such place of abode is known and is within or without the commonwealth; or,
3. By certified or registered mail, return receipt requested, to the owner, or the lessee, or the mortgagee or contact person specified pursuant to paragraph (c)(6) if such address is known and is within the Commonwealth.
4. If the residence and whereabouts of the owner or, the owner's lessee or, the mortgagee or, the owner's agent are unknown or are outside the Commonwealth, then the notice shall be served by posting a copy thereof in a conspicuous place on the property and by advertising it for at least three out of five consecutive days in one or more newspapers of general circulation within the city.

In City Council February 27, 2001

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A. Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8054**

AN ORDINANCE ESTABLISHING AN EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT, ESTABLISHING AN EXECUTIVE OFFICE OF NEIGHBORHOOD SERVICES, ELIMINATING THE OFFICE OF PLANNING AND COMMUNITY DEVELOPMENT AND AMENDING THE ORGANIZATIONAL ORDINANCES OF THE INFORMATION SERVICES DEPARTMENT AND THE PLANNING BOARD

Be it enacted by the City Council of the city of Worcester, as follows:

**§ 1.** The Revised Ordinances of Worcester, Part Two, is hereby amended by inserting a new article, Article 15A, Executive Office of Economic Development, as follows:

**ARTICLE 15A. EXECUTIVE OFFICE OF ECONOMIC DEVELOPMENT**

- § 1. Establishment
- § 2. Function
- § 3. Personnel
- § 4. Head of Department
- § 5. Duties & Responsibilities
- § 6. Planning & Urban Environmental Design Activities
- § 7. Official Map
- § 8. Zoning Map
- § 9. Grant Funded Activities
- § 10. Location

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established as a division within the Office of the City Manager an agency of the city to be known as the "Executive Office of Economic Development" (hereinafter "development office").

**§ 2. Function**

It shall be the function of the development office: to promote, develop and expand investment and employment in the city; to secure the commitment of private capital into new or existing businesses in the city; and, to perform planning functions necessary for the economic development and land use planning of any or all areas of the city.

**§ 3. Personnel**

The development office shall consist of a "Chief Development Officer" and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

**§ 4. Head of Department**

The development office shall be under the jurisdiction of the city manager and shall be headed by a chief development officer who shall be appointed by and serve at the pleasure of the city manager.

## § 5. Duties & Responsibilities

It shall be the responsibility of the chief development officer to perform the following duties:

- (a) to attract the investment of private capital into new or existing businesses so as to expand the tax base and employment levels of the city;
- (b) to develop and administer the marketing program of the city and to promote Worcester as a place for conventions, tourism and travel;
- (c) to administer the business and economic development laws and programs of the state and federal governments;
- (d) to administer any and all contracts entered into by the city for business or economic development purposes;
- (e) to administer the executive functions of the Worcester Redevelopment Authority in accordance with the directives of the city manager and the by-laws of that agency;
- (f) to provide the city manager with advice on planning and land use patterns in the city by:
  - i. performing the planning, urban environmental design and policy-planning-management-capacity building activities prescribed in the community development block grant program (see, 24 C.F.R. 507.205) to the extent those activities are consistent with the land use planning and economic development functions of the office;
  - ii. maintaining the official map of the city in accordance with the laws of the commonwealth; and,
  - iii. maintaining an accurate copy of the zoning map in accordance with the zoning ordinance;
- (g) to provide the city manager with recommendations on useful changes to the official map of the city or the zoning map or zoning ordinance of the city;
- (h) to provide the Conservation Commission, Cultural Commission, Historic Commission, Planning Board, and Zoning Board of Appeals, together with any other city department, board, commission or agency as may from time to time be so designated, with administrative services and support and to perform any and all functions as may be lawfully delegated by such boards or commissions to the office;
- (i) to administer the office; and
- (j) to perform such other duties as may from time to time be assigned or requested by the city manager.

## **§ 6. Planning & Urban Environmental Design Activities**

In performing the planning, urban environmental design and policy-planning-management-capacity building activities under the community development block grant program (see, 24 C.F.R. 507.205), the office may gather data, conduct studies and analysis and otherwise prepare the following plans: comprehensive plans; community development plans; and, functional plans in areas such as economic development, land use and urban environmental design, housing, open space and recreation, energy use and conservation, floodplain and wetlands management, transportation, utilities, historic preservation.

## **§ 7. Official Map**

The official map of the city shall contain only those public ways, private ways and parks as authorized by section 81E of chapter 41 of the General Laws. The chief development officer shall keep a true and accurate copy of the official map and is hereby authorized to certify as true copies and issue the official map of the city or any portion thereof. The chief development officer shall revise the official map with lines or notations showing proposed, new, altered, relocated or discontinued public ways and new, altered or discontinued boundaries of parks and playgrounds, as may from time to time result from any action of the city council or otherwise by operation of law. The chief development officer, either directly or through subordinates, shall cause all changes or additions to the official map to be recorded in the Worcester District Registry of Deeds and filed with the city clerk and the state agency designated by statute to receive said filings.

## **§ 8. Zoning Map**

The chief development officer shall maintain a true and accurate copy of the zoning map of the city, as the same may be amended from time to time by action of the city council, and shall, either directly or through subordinates, certify as true copies and issue the zoning map of the city or any portion thereof. The chief development officer shall revise the zoning map to show changes made by any amendments to the zoning ordinance adopted by the city council or otherwise by operation of law. The chief development officer, either directly or through subordinates, shall cause all amendments to the zoning map to be recorded in the Worcester District Registry of Deeds and filed with the city clerk.

## **§ 9. Grant Funded Activities**

Whenever a grant has been awarded from any source to further the performance of the duties and responsibilities described in section five hereof, the proceeds of all and any such grants shall be deposited in accounts within the Office of the City Manager which accounts shall, for financial management purposes, be under the control of the budget director. Whenever a grant provides funds for an activity which would be properly or ordinarily be performed by any other city agency regardless of the source of funding, that city agency shall be responsible for implementing the activities funded by the grant.

**§ 10. Location**

The office shall be located at a place, or such places, as determined by the city manager.

**§ 2.** The Revised Ordinances of Worcester, Part Two, is hereby amended by inserting a new article, Article 27A, Executive Office of Neighborhood Services, as follows:

**ARTICLE 27A. EXECUTIVE OFFICE OF NEIGHBORHOOD SERVICES**

- § 1. Establishment
- § 2. Function
- § 3. Personnel
- § 4. Head of Department
- § 5. Duties & Responsibilities
- § 6. Grants and Program Activities
- § 7. Location

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established as a division within the Office of the City Manager an agency of the city to be known as the "Executive Office of Neighborhood Services" (hereinafter "neighborhood services office").

**§ 2. Function**

It shall be the function of the neighborhood services office to develop and administer programs to improve the quality of life in the neighborhoods of the city, including the policies of the city on housing and homelessness, and to assist in the administration of human and public service programs.

**§ 3. Personnel**

The office shall consist of an "Assistant City Manager for Neighborhood Services and Legislative Affairs," a "Neighborhood Services Administrator" and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

**§ 4. Head of Department**

The neighborhood services office shall be under the jurisdiction of the city manager and shall be headed by the Assistant City Manager for Neighborhood Services and Legislative Affairs, (hereinafter "neighborhood services officer ") who shall be appointed by and serve at the pleasure of the city manager.

## **§ 5. Duties & Responsibilities**

It shall be the responsibility of the neighborhood services officer to perform the following duties:

- (a) to administer the community development block grant program in accordance with the entitlements and requirements of the Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq., as amended, and the regulations adopted under authority thereof at 24 C.F.R. 570. (see, 24 C.F.R. 507.206);
- (b) to administer state and federal grant programs which provide home ownership and housing opportunities and assistance for persons of low and moderate income;
- (c) to ensure that residents enjoy the full advantage of neighborhood programs involving community policing, local law enforcement, neighborhood alert centers, neighborhood grime watches, community health, targeted cities initiatives, elder services and basic family preservation services;
- (d) to develop and administer the policies of the city on housing and homelessness;
- (e) to act as legislative liaison to monitor and report on state and federal legislation affecting the human and public service needs of the city;
- (f) to represent the city administration at various neighborhood and community group meetings;
- (g) to perform planning, urban environmental design and policy-planning-management-capacity building activities under the community development block grant program (see, 24 C.F.R. 507.205) to the extent those activities are consistent with the human and public service functions of the office;
- (h) to process applications for grants from federal, state and private sources to be expended by the appropriate city agencies for the public purposes for which those agencies have been established and organized under the city charter;
- (i) to administer the office; and,
- (j) to perform such other duties as may from time to time be assigned or requested by the city manager.

**§ 6. Grants and Program Activities**

The proceeds of all and any grants obtained through the activities of the office shall be deposited in accounts within the Office of the City Manager which accounts shall, for financial management purposes, be under the control of the budget director. Whenever a grant provides funds for an activity which would be properly or ordinarily be performed by any other city agency regardless of the source of funding, that city agency shall be responsible for implementing the activities funded by the grant. When directed by the city manager, the office shall be authorized to monitor the implementation of any grant received and, in so doing to charge the grant proceeds with any administration fee authorized by law. The office shall not be the recipient of the proceeds of any grant awarded through the performance of its duty to process applications for grants from federal, state and private sources unless such grant provides funds for a programmatic activity under the responsibility of the office and the expenditure of such grant proceeds is approved by the city manager.

**§ 7. Location**

The office shall be located at a place, or such places, as determined by the city manager.

**§ 3.** The Revised Ordinances of Worcester, Part Two, Article 23, Information Services Department, is hereby amended as follows:

- A. by deleting the text of section two thereof in its entire and inserting in lieu thereof the following:

It shall be the function of the department to provide information management and support services to the city including, but not limited to, the planning, analysis, development and support of information systems, including a geographic information system, for all agencies of the city, including the school department.

and,

- B. by deleting the text of subsection (b) of section five thereof in its entirety and inserting in lieu thereof the following:

to direct, organize, and implement the planning, development and production of information systems, including the integrated municipal information system and the geographic information system.

**§ 4.** The Revised Ordinances of Worcester, Part Two, is hereby amended by deleting Article 30, Executive Office of Planning and Community Development, in its entirety.

**§ 5.** The Revised Ordinances of Worcester, Part Two, Article 31, Planning Board, is hereby amended by deleting the text of section four thereof in its entirety and inserting in lieu thereof the following:

The affairs of the board shall be administered by an agency of the city designated by the city manager.

**§ 6.** In accordance with Article Six of the city charter, this ordinance shall take effect on the date it is adopted or April 9, 2001, whichever first occurs unless, however, that the city council has voted to disapprove this ordinance on or before April 9, 2001.

**In City Council February 27, 2001  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Amendment 8080**

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE  
REVISED ORDINANCES OF 1996

Be it ordained by the City Council of the City of Worcester as follows:

Chapter Eight of the Revised Ordinances of 1996 is hereby amended by inserting the following new sections immediately after §34:

**MERCURY FEVER THERMOMETERS**

**§35 Declaration of Findings and Policy.**

Mercury is a persistent and toxic pollutant that bioaccumulates in the environment and the food chain. The incineration of medical and municipal waste, which contains whole or broken thermometers, is a major source of atmospheric deposition of mercury in the Northeast resulting in contamination of air and water. Mercury from mercury fever thermometers can also directly enter the environment through vaporization and/or spillage when a fever thermometer breaks during use, transportation or disposal.

The United States Environmental Protection Agency (US EPA) estimated that for the year 2000, 17 tons of elemental mercury from thermometers will be disposed of as municipal solid waste - this does not include additional mercury that finds its way into the medical waste stream. Accidental mercury spills, breakages, and releases have occurred at schools throughout the Northeast. In addition to the threat of health risks to students and staff and potential for adverse environment impact, these discharges are costly, Harvard University has sited that it costs \$110 to properly clean up a single thermometer breakage in a laboratory. These incidences have proven costly to clean up and have exposed students, teachers and/or administrators to mercury emissions.

Due to the bioaccumulation of mercury in fish, the Massachusetts Department of Public Health has issued statewide native fresh water fish advisory, warning pregnant women, women of childbearing age and children not to consume any fish.

Pharmacy chains of Rite-Aid, K-Mart, Brooks, Target, Wal-Mart, Albertson, Kinney, Toys 'R' Us, Safety First, The First Years and Meijers among others have joined a Mercury Free Thermometer campaign, pledging to discontinue the sale of mercury basal and fever thermometers.

There are accurate and safe alternatives to mercury fever thermometers that are readily available and comparable in cost. Local take back programs have already demonstrated the ease and effectiveness of removing mercury products.

The New England States and Eastern Canadian Provinces are implementing a bi-national mercury plan, which was unanimously adopted in June of 1998 by the Conference of New England Governors and Eastern Canadian Premiers (and signed by Governor Cellucci in June 1998). The mercury action plan is an ambitious program to virtually eliminate the emissions of mercury in the region. The regional goal of this action plan supports the virtual elimination of anthropogenic mercury.

The "Massachusetts Zero Mercury Strategy", formed by Environmental Affairs Secretary, Robert Durand, adopted in the summer of 2000 an ambitious strategy that calls for virtual elimination of the use and discharge of mercury including mercury fever thermometers.

It is the intent of this Ordinance to protect and promote the public health and safety of Worcester residents by significantly reducing the discharge of mercury into the environment.

#### **§ 36. Definitions**

A. Mercury-Fever Thermometer - A mercury-containing product that is used to measure body temperature. A mercury-containing product is a product, device, instrument or equipment into which elemental mercury or mercury compounds are intentionally added during its formulation or manufacture and in which the continued presence of mercury is desired to provide a specific characteristic or to permit a specific function.

B. Health Care Facility - Any hospital, nursing home, extended care facility, long-term facility, clinic or medical laboratory, state or private health or mental institution, clinic, physician's office, or health maintenance organization.

C. Manufacturer - Any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that produces a mercury fever thermometer. If the mercury thermometer is produced in a foreign country, the manufacturer is the importer or domestic distributor.

#### **§ 37. Retail Sales Prohibited**

No mercury fever thermometers shall be sold or supplied to consumers or patients in the city of Worcester without a prescription therefor. The manufacturers of mercury fever thermometers shall supply clear instruction on the careful handling of the mercury fever thermometer to avoid breakage and proper cleanup should a breakage occur with all mercury fever thermometers sold through prescriptions.

#### **§ 38. Manufacturing Prohibited**

It shall be unlawful for any person to manufacture a mercury fever thermometer in the city of Worcester.

#### **§ 39. Importation Prohibited**

It shall be unlawful for any facility to import, purchase, or distribute a mercury fever thermometer in the city of Worcester, except in the case of medical necessity as determined by a licensed physician.

#### **§ 40. Restriction on the Sale of Mercury Thermometers**

Effective January 1, 2002, no person shall sell or supply mercury fever thermometers to consumers or patients in the city of Worcester.

**§ 41. Penalty**

Any person violating this ordinance shall be subject to a fine of not more than three hundred (\$300.00) dollars per unit supplied, sold or unlawfully delivered. The Commissioner of the Department of Public Health and Code Enforcement or his or her designee shall be the enforcing person for purposes of this ordinance.

In City Council May 8, 2001

Passed to be ordained by a yea and nay vote of Nine Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 8083**

AN ORDINANCE AMENDING CHAPTER SEVEN SECTION SIXTEEN OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO WATER USER CHARGES

Be it ordained by the City Council of the City of Worcester as follows:

1. Section Sixteen of Chapter Seven of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (c) thereof the number "\$1.96" as it appears therein and inserting in lieu thereof the number "\$2.09".
2. Section Sixteen of Chapter Seven of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (e) thereof the words "two dollars and fifty cents" as they appear therein and inserting in lieu thereof the words "seven dollars and fifty cents."
3. This amendment shall be effective as of July 1, 2001 and shall apply to all bills issued after such effective date in accordance with subsection (f) of Section Sixteen of Chapter Seven of the Revised Ordinances of 1996.

In City Council

June 19, 2001

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 8084**

AN ORDINANCE AMENDING CHAPTER FIVE OF SECTION TWENTY-SIX  
OF THE REVISED ORDINANCES OF 1996 RELATIVE TO  
SEWER USER CHARGE

Be It Ordained by the City Council of the City of Worcester as follows:

1. Section twenty-six of Chapter Five of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof the number "\$1.70" and inserting in lieu thereof the number "\$1.78".

2. This amendment shall be effective as of July 1, 2001 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 1996.

In City Council June 19, 2001

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8085**

AN ORDINANCE AMENDING CHAPTER THIRTEEN, SECTION 39 OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO HANDICAP PARKING

Be it ordained by the city council of the city of Worcester as follows:

Chapter 13, section 39 of the Revised Ordinances of 1996 is hereby amended as follows:

The following new subsections (c) and (d) are inserted immediately following subsection (b):

(c) the police chief or his or her designee may remove, or cause to be removed, to some convenient place, or to a municipal or public garage, any vehicle parked, standing or left in a parking space located on the public way designated for use by disabled veterans or handicap persons, or any unauthorized vehicle left on the public way in such a manner as to obstruct a curb or ramp designed for use by disabled veterans or handicapped persons as a means of egress to a street or public way. Vehicles owned by the Commonwealth of Massachusetts or a political subdivision thereof or registered by a member of a foreign diplomatic corps or by a foreign consular officer and bearing a distinctive number plate or otherwise conspicuously marked as so owned or registered, shall not be subject to removal. In addition to the fine set forth in section 36 (e) herein, the actual and reasonable costs of such removal and storage charges, if any, shall be charged to the owner or person in whose name the vehicle is registered, provided however that such charges shall not exceed the maximum rate established by the department of telecommunications and energy.

(d) upon complaint or when requested by a person who has lawful control of an off-street parking area, the chief of police or his or her designee, may remove or cause to be removed, to some convenient place, or to a municipal or public garage, any vehicle parked, standing or left in a parking space located in said private off-street parking area and designated for use by disabled veterans or handicap persons, where such space is properly identified by the use of above grade signs with white lettering against a blue background, bearing the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May Be Removed At Owner's Expense". In addition to the fine set forth in section 36 (e) herein, the actual and reasonable costs of such removal and storage charges, if any, shall be charged to the owner or person in whose name the vehicle is registered, provided however that such charges shall not exceed the maximum rate established by the department of telecommunications and energy.

In City Council June 19, 2001

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 8229**

AN ORDINANCE AMENDING ARTICLE 23 OF PART II  
OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO INFORMATION SERVICES DEPARTMENT

Be It Ordained by the City Council of the City of Worcester, as follows:

Part II, Organization of City Agencies, Article 23, Information Services Department, be and is hereby amended by deleting in Section 1 the words "Information Services Department" and inserting in lieu thereof the words "Technical Services Department."

This amendment shall be effective upon passage.

In City Council June 11, 2002

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

**David J. Rushford**  
City Clerk

**Amendment 8230**

AN ORDINANCE AMENDING CHAPTER SEVEN SECTION SIXTEEN OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO WATER USER CHARGES

Be it Ordained by the City Council of the City of Worcester as follows:

Section Sixteen of Chapter Seven of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (c) thereof the numbers "\$2.09" as they appear therein and inserting in lieu thereof the numbers "\$2.20".

2. Section Sixteen of Chapter Seven of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (e) thereof the words "seven dollars and fifty cents" as they appear therein and inserting in lieu thereof the words "eleven dollars and twenty-five cents."

3. This amendment shall be effective as of July 1, 2002 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 1996.

**In City Council** **July 16, 2002**  
**Passed to be ordained by a yea and nay vote of Seven Yeas and Two Nays.**

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8231**

AN ORDINANCE AMENDING CHAPTER FIVE SECTION TWENTY-SIX OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO SEWER USER CHARGE

Be it Ordained by the City Council of the City of Worcester as follows:

1. Section twenty-six of Chapter Five of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof the numbers "\$1.78" as they appear therein and inserting in lieu thereof the numbers "\$1.90".

2. This amendment shall be effective as of July 1, 2002 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 1996.

**In City Council July 16, 2002**

**Passed to be ordained by a yea and nay vote of Seven Yeas and Two Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**

***David J. Rushford***

**City Clerk**

**Amendment 8234**

AN ORDINANCE AMENDING CHAPTER SEVEN SECTION SIXTEEN OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO  
FIRE SUPPRESSION WATER RATES

Be it Ordained by the City Council of the City of Worcester as follows:

1. Section sixteen of Chapter Seven of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (c), lines (4) and (5) thereof, the numbers "\$70.00" and "\$118.00" as they appear therein and inserting in lieu, thereof, the numbers "\$89.00" and "\$149.00".
2. Future changes to the fees set forth above shall be established by the commissioner pursuant to M.G.L. c. 40, ss 22F.
- 3, This amendment shall be effective as of July 1, 2002 and shall apply to all bills issued after such effective date.

In City Council September 3, 2002

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8259**

AN ORDINANCE REORGANIZING THE  
DEPARTMENT OF PUBLIC HEALTH & CODE ENFORCEMENT  
INTO A DEPARTMENT OF PUBLIC HEALTH AND A  
DEPARTMENT OF CODE ENFORCEMENT

WHEREAS, on July 16, 2002 the city manager, acting under authority of article six of the home rule charter, submitted a reorganization plan and ordinance to the city council; and,

WHEREAS, after referral to an appropriate committee for a public hearing and the timely receipt of a report therefrom,

Be it ordained by the City Council of the city of Worcester, as follows:

**Organizational Ordinance Amendments**

§ 1. Part Two of the Revised Ordinances is hereby amended by deleting the entire text of Article 33, Public Health & Code Enforcement Department, and inserting in lieu thereof a new Article 33, Public Health Department, as attached hereto.

§ 2. Part Two of the Revised Ordinances is hereby amended by inserting a new Article 9A, Code Enforcement Department, as attached hereto.

§ 3. Part Two of the Revised Ordinances, Article 15A, Executive Office of Economic Development, is hereby amended by deleting subsection 5(h) in its entirety and inserting in lieu thereof a new subsection 5(h) as follows:

to provide any city department, board, commission or agency as may from time to time be so designated, with administrative services and support and to perform any and all functions as may be lawfully delegated by such boards or commissions to the office;

§ 4. Part Two of the Revised Ordinances of Worcester, Article 31, Planning Board, is hereby amended by deleting the text of section four thereof in its entirety and inserting in lieu thereof the following:

The affairs of the board shall be administered by an agency of the city designated by the city manager.

**Regulatory Ordinance Amendments**

§ 5. Part One of the Revised Ordinances of Worcester, chapter five, section 6(b), subsection (i), is hereby amended by deleting the words "and code enforcement" after the words "commissioner of public health".

§ 6. Part One of the Revised Ordinances of Worcester, chapter eight, section one, is hereby amended by deleting it in its entirety thereof and inserting in lieu thereof the following new section:

Unless specifically provided otherwise herein, the provisions of this chapter shall be enforced by the commissioner of public health, the director of public health, the commissioner of code enforcement, the director of code enforcement, any duly authorized member of the department of public health or the department of code enforcement, by any police officer, or by any other officer or employee of the city specifically authorized in writing by the city manager. Any such enforcing officer or person may utilize any and all available methods of enforcing the provisions of this chapter including, but not limited to: criminal process, non-criminal disposition, the issuance of orders or any other administrative actions.

§ 7. Part One of the Revised Ordinances of Worcester, chapter eight, section three, subsection (b), the definition of "commissioner" is hereby amended as follows:

A. By deleting the definition of "commissioner" in its entirety and inserting in lieu thereof the following:

"director" shall mean the director of the department of code enforcement of the city of Worcester

and;

B. By deleting the word "commissioner" and inserting the word "director" each place it appears in said section three.

§ 8. Part One of the Revised Ordinances of Worcester, chapter eight, section five, is hereby amended by deleting the words "code director" each time they appear and inserting in lieu thereof the words "director of code enforcement".

§ 9. Part One of the Revised Ordinances of Worcester, chapter eight, section seven, is hereby amended by deleting the words "code director" each time they appear and inserting in lieu thereof the words "director of code enforcement".

§ 10. Part One of the Revised Ordinances of Worcester, chapter eight, section eight, is hereby amended as follows:

A. in subsection (b), by deleting the words "Department of Public Health and Code Enforcement (hereinafter "department")," and inserting in lieu thereof the words "department of public health and the department of code enforcement";

B. in subsection (c), by deleting the words "health department regulations" and inserting in lieu thereof the words "regulations adopted by the department of public health or the department of code enforcement"; and

C. in subsection (d), by deleting the word "department" and inserting in lieu thereof the words "department of public health or the department of code enforcement".

§ 11. Part One of the Revised Ordinances of Worcester, chapter eight, section nine, subsection (a), is hereby amended as follows:

- A. in subsection (a), definition of "*Certificate of fitness*" or "*certificate*", is hereby amended by deleting the word "department" and inserting the words "department of public health or department of code enforcement (hereinafter "departments")";
- B. in subsection (b), by deleting the first sentence thereof and inserting a new first sentence as follows:

"Any owner of a dwelling unit or authorized agent of the owner may request the director of public health to issue a certificate, which certificate shall be issued if said director determines, upon receipt of inspection reports from the departments, that the dwelling unit meets the minimum standards set forth in the state sanitary code.";
- C. in subsection (c), by deleting the word "department" and inserting in lieu thereof the words "director of public health";
- D. in subsection (d), by deleting the word "department" in line one and inserting in lieu thereof the word "director of public health"; by deleting the words "department shall issue" in line two and inserting in lieu thereof the words "director of public health shall cause to be issued"; and, by inserting after the word "department" in the second sentence thereof the words "issuing any such order";
- E. in subsection (e), by deleting the word "department" and inserting in lieu thereof the word "director of public health" each time it appears therein; and,
- F. in subsection (g), by deleting the words "commissioner of public health and code enforcement" and inserting in lieu thereof the words "director of public health" and by replacing the word "department" with the word "director" each time it appears therein.

§ 12. Part One of the Revised Ordinances of Worcester, chapter eight, section eleven, subsection (f), is hereby amended by deleting the words "commissioner of public health and code enforcement" and inserting in lieu thereof the words "director of public health".

§ 13. Part One of the Revised Ordinances of Worcester, chapter eight, section sixteen, subsection (a), is hereby amended by deleting the words "commissioner of public health and code enforcement" and inserting in lieu thereof the words "director of public health".

§ 14. Part One of the Revised Ordinances of Worcester, chapter eight, section twenty-three, is hereby amended by deleting the words "Commissioner of Public Health and Code Enforcement (hereinafter "commissioner")" and inserting in lieu thereof the words "director of public health" (hereafter "director") in subsection (a) thereof, and by replacing "commissioner" with "director" in subsections (d) and (e) thereof.

§ 15. Part One of the Revised Ordinances of Worcester, chapter eight, section twenty-four, is hereby amended by deleting the words "Department of Public Health and Code Enforcement" and inserting in lieu thereof the words "department of public health, department of code enforcement" in subsection (c) thereof, and by replacing "commissioner" with "director" in subsection (d) thereof.

§ 16. Part One of the Revised Ordinances of Worcester, chapter nine, section thirteen, subsection (b), is hereby amended by deleting the definition of "director" and inserting in lieu thereof the following new definition:

"*director*" - shall mean the director of code enforcement as established by § 3 of Article 9A of Part II of these Revised Ordinances.

§ 17. Part One of the Revised Ordinances of Worcester, chapter fourteen, section four, subsection (b), is hereby amended by deleting the words "department of public health and code enforcement" and inserting in lieu thereof the words "director of public health".

§ 18. Part One of the Revised Ordinances of Worcester, chapter fourteen, section ten, subsection (a), is hereby amended by deleting the words "department of public health and code enforcement" and inserting in lieu thereof the words "director of public health".

§ 19. Part One of the Revised Ordinances of Worcester, chapter fourteen, section thirteen is hereby amended by deleting the words "department of public health and code enforcement" and inserting in lieu thereof the words "director of public health".

#### **Non-Criminal Disposition Amendments**

§ 20. Part One of the Revised Ordinances of Worcester, chapter fifteen, section 2(b), is hereby amended as follows:

- A. Subsection (ii): by deleting the words "the director of code enforcement's requirement to maintain temporary metal fencing issued under the Revised Ordinances, chapter 8, § 5" and inserting in lieu thereof the words "temporary metal fencing requirement - Revised Ordinances, chapter 8, § 5";
- B. Subsection (iii): by deleting the line "enforcing person: commissioner of public health" and inserting in lieu thereof a new line as follows: "enforcing persons: director of public health and director of code enforcement";
- C. Subsection (iv): by deleting the line "enforcing person: commissioner of public health" and inserting in lieu thereof a new line as follows: "enforcing persons: director of public health and director of code enforcement";

- D. Subsection (xi): by deleting the line "enforcing person: commissioner of public health and code enforcement" and inserting in lieu thereof a new line as follows: "enforcing persons: director of public health";
- E. Subsection (xii): by deleting the line "enforcing person: commissioner of public health and code enforcement" and inserting in lieu thereof a new line as follows: "enforcing persons: director of public health; director of code enforcement";
- F. Subsection (xiv): by deleting the line "enforcing person: commissioner of public health" and inserting in lieu thereof a new line as follows: "enforcing persons: director of code enforcement; commissioner of public works";
- G. Subsection (xv): by deleting the line "enforcing person: license commission, fire chief, police chief, commissioner of public health and code enforcement" and inserting in lieu thereof a new line as follows: "enforcing persons: license commission, fire chief, police chief, director of public health and director of code enforcement";
- H. Subsection (xvi): by deleting the line "enforcing person: chief of police, commissioner of public health and code enforcement" and inserting in lieu thereof a new line as follows: "enforcing persons: chief of police; director of public health";
- I. Subsection (xvii): by deleting the line "enforcing person: commissioner of public health" and inserting in lieu thereof a new line as follows: "enforcing person: director of code enforcement";
- J. Subsection (xix): by deleting the line "enforcing person: commissioner of public health" and inserting in lieu thereof a new line as follows: "enforcing persons: director of public health; department of code enforcement"; and,
- K. Subsection (xx): by deleting the line "enforcing person: commissioner of public health; fire chief" and inserting in lieu thereof a new line as follows: "enforcing persons: director of public health; director of code enforcement; fire chief".

**Effective Date**

§ 21. In accordance with Article Six of the city charter, this ordinance shall take effect at 11:59 p.m. on the Saturday next after the date it is adopted or at the same time on October 19, 2002, whichever first occurs; unless, however, that the city council has voted to disapprove this ordinance on or before October 15, 2002.

In City Council October 8, 2002

Passed to be ordained by a yea and nay vote of Nine Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**ARTICLE 33. PUBLIC HEALTH DEPARTMENT**

- § 1. Establishment
- § 2. Function
- § 3. Personnel
- § 4. Head of Department
- § 5. Commissioner of Public Health
- § 6. Board of Health

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Public Health" (hereinafter "department").

**§ 2. Function**

It shall be the function of the department:

- (a) to preserve, promote and protect the physical and mental health of the inhabitants of the city;
- (b) to prevent and abate the spread of communicable diseases, rodents and illnesses borne by food, animals or insects;
- (c) to develop and conduct tobacco control and alcohol and substance abuse programs;
- (d) to collect and distribute statistics and reports on public health occurrences and issues within the city of Worcester;
- (e) to adopt regulations under authority provided by the General Laws;
- (f) to enforce all relevant laws, ordinances and regulations;
- (g) to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and,
- (h) to provide public health services for the city of Worcester.

**§ 3. Personnel**

(a) The department shall consist of a commissioner to be known as "Commissioner of Public Health" (hereinafter "commissioner"); a five member board to be known as the "Board of Health"; (hereinafter "board"); a Director of Public Health (hereinafter "director"); and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

(b) The personnel of the department shall also include one or more inspectors of milk, who shall be appointed by the city manager and shall be under the direction and control of the director, and one or more inspectors of animals, who shall be appointed annually by the city manager for a term of one year in accordance with the General Laws, chapter one hundred twenty nine, section fifteen. At least one inspector of animals shall be a registered

veterinarian. The inspectors of milk and inspectors of animals shall perform such duties as assigned or as are prescribed by the General Laws.

(c) There shall also be located within the department an animal control unit, which shall consist of animal control officers appointed by the city manager in such number and rank as the city council, with the advice of the city manager, shall from time to time authorize.

**§ 4. Head of Department**

- (a) The head of the department shall be the director, who shall be appointed by, and serve at the pleasure of, the city manager.
- (b) It shall be the duty and responsibility of the director to:
  - (1) administer the department;
  - (2) direct and supervise the employees of the department;
  - (3) implement and establish rules, policies and practices for the training and performance of employees of the department;
  - (4) prepare, monitor and manage the budget for the department;
  - (5) direct and supervise the department's medical activities;
  - (6) supervise and direct the activities of the inspection personnel of the department;
  - (7) coordinate the department's inspection activities with other agencies;
  - (8) enforce the laws, ordinances, codes or regulations administered by the department by investigating complaints or initiating any enforcement programs;
  - (9) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager;
  - (10) determine the priorities of the department and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
  - (11) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested orally or in writing by the city manager;
  - (12) have care, custody and control of all of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager or the city council;

- (13) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, and the Constitutions and laws of the Commonwealth and the United States of America; and,
- (14) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager.

#### **§ 5. Commissioner of Public Health**

(a) The commissioner shall be appointed by the city manager for a three year term in accordance with the requirements of chapter 181 of the Acts of 1953.

(b) In accordance with chapter 181 of the Acts of 1953, the commissioner shall perform and exercise the duties and powers established by law to be performed by a board of health.

(c) It shall also be the duty and responsibility of the commissioner to:

- (1) preserve, promote and protect the physical and mental health of the inhabitants of the city by developing and revising a public health program of the city of Worcester and providing advice to the city manager on public health issues;
- (2) perform all duties and exercise all the powers vested in a commissioner of public health or a board of health by chapter one hundred eleven of the General Laws, or any other general or special law;
- (3) serve as chair of the board of health;
- (4) promulgate guidelines and regulations concerning the medical activities of the department;
- (5) perform such other duties as assigned by the city manager or as may be prescribed by law.

#### **§ 6 Board of Health**

(a) The board shall consist of five members appointed by the city manager for staggered terms of three years each. One member shall be the commissioner, who shall serve as its chair, and another member shall have received a degree in dentistry from a dental school classified by the American Medical or Dental Association as a grade A school.

(b) It shall be the duty and responsibility of the board of health to assist and act with the commissioner as provided in chapter 181 of the Acts of 1953.

**ARTICLE 9A. CODE ENFORCEMENT DEPARTMENT**

- § 1. Establishment
- § 2. Function
- § 3. Personnel
- § 4. Head of Department
- § 5. Duties & Responsibilities
- § 6. Director of Code Enforcement

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Code Enforcement (hereinafter "department").

**§ 2. Function**

It shall be the function of the department:

- (a) to serve the needs of residents of the city concerning the requirements of all building, housing and architectural access codes;
- (b) to administer and enforce the state building code, architectural access board regulations, the zoning ordinance and the duties of the commissioner of housing inspection;
- (c) to exercise every authority provided by law to enforce building, housing and architectural access codes, laws, ordinances and regulations;
- (d) when authorized by the city manager, to provide architectural design and construction management services on any city capital facility project;
- (e) to consult with the city manager's advisory committee on persons with disabilities and other representatives of the disabled community at the earliest practical stage when providing design services to the city manager on any city capital facility project;
- (f) to organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (g) to provide the Zoning Board of Appeals, Planning Board, Conservation Commission, Historic Commission, and, together with any other city department, board, commission or agency as may from time to time be designated by the city manager, with technical assistance, administrative services and support and to perform any and all functions as may be lawfully delegated by such boards or commissions to the office; and
- (h) to perform any other code inspection and enforcement activities as required or authorized by law.

### **§ 3. Personnel**

The department shall consist of a Commissioner of Code Enforcement" (hereinafter "commissioner"); a "Director of Code Enforcement" (hereinafter "director"), who shall be the building inspector as required by section one of chapter one hundred forty three of the General Laws; and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

### **§ 4. Head of Department**

The head of the department shall be the commissioner, who shall be appointed by, and serve at the pleasure of, the city manager.

### **§ 5. Duties & Responsibilities**

It shall be the duty and responsibility of the commissioner to:

- (a) administer the department;
- (b) direct and supervise the employees of the department, unless otherwise provided herein;
- (c) implement and establish rules, policies and practices for the training and performance of employees of the department;
- (d) prepare, monitor and manage the budget for the department;
- (e) supervise and direct the activities of the personnel of the department and coordinate the department's activities with other agencies;
- (f) provide technical assistance, administrative services and support to the Zoning Board of Appeals, Planning Board, Conservation Commission, Historic Commission, and, any other city department, board, commission or agency as may from time to time be designated by the city manager;
- (g) enforce the laws, ordinances, codes or regulations administered by the department by investigating complaints or initiating any enforcement programs;
- (h) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager;
- (i) determine the priorities of the department and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (j) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested orally or in writing by the city manager;

- (k) have care, custody and control of all of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager or the city council;
- (l) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, and the Constitutions and laws of the Commonwealth and the United States of America; and,
- (m) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager.

**§ 6. Director of Code Enforcement**

(a) The director shall possess and exercise all of the powers, duties and responsibilities vested by state law in a city or town building inspector or building commissioner, including the following:

- (1) to administer and enforce the state building code pursuant to chapter one hundred forty three of the General Laws and the regulations adopted pursuant thereto;
- (2) to administer and enforce the provisions of the architectural access board pursuant to chapter twenty-two, section thirteen A, of the General Laws and the regulations adopted pursuant thereto;
- (3) to administer and enforce the Zoning Ordinance adopted pursuant to chapter forty A of the General Laws;
- (4) to perform the duties vested by chapter one hundred twenty-seven A of chapter one hundred eleven of the General Laws, or any other statute, in a commissioner of housing inspection.

(b) When administering and enforcing the state building code as well as the requirements of the Architectural Access board, the director shall be directly responsible to the city manager. In all other respects, including the administration and enforcement of the zoning ordinance, the director shall be responsible to the commissioner.

Amendment 8265

AN ORDINANCE AMENDING CHAPTER FIVE  
SECTION SIX OF THE REVISED ORDINANCES OF 1996

Be it Ordained by the City Council of the city of Worcester as follows:

1. Section Six of Chapter Five of the Revised Ordinances of 1996 is hereby amended by deleting from subsection (b)(ii) thereof the following provision:

"; provided, however, that no fee shall be charged for the first three hundred and thirty gallons proposed to be introduced by any new connection"

In City Council November 12, 2002  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8267**

AN ORDINANCE AMENDING CHAPTER THIRTEEN OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO  
FINES FOR PARKING VIOLATIONS

Be it ordained by the city council of the city of Worcester, as follows:

1. Chapter 13 of the Revised Ordinances of the city of Worcester (1996) be and is hereby amended by deleting section thirty six in its entirety and inserting the following in lieu thereof:

**§ 36. Responsibility and Penalties for Parking Violations**

(a) A fine of ten dollars shall be imposed for each violation of the parking meter and of the time limits provisions of § 42 as designated in schedule I and schedule VI and § 60, and for each violation of § 59 and for each violation of § 54 and any regulation of the Off-Street Parking Board concerning metered parking in off-street lots.

(b) A fine of fifteen dollars shall be imposed for each violation of § 37 (first para.), § 37(b), § 37(d), § 37(g), § 37(k), § 37(m), § 37(o), § 45, § 46, § 49, § 51, § 52, § 54, § 59 and § 65.

(c) A fine of twenty dollars shall be imposed for each violation of § 37(a), § 37(c), § 37(e), § 37(h), § 37(l) and § 37(p), § 38, §40, §44, § 47(b) and any regulation of the Off-Street Parking Board, except those described in subsection (a) above.

(d) A fine of twenty-five dollars shall be imposed for each violation of § 37(c), § 37(e), § 37(i) and § 37(j), and § 41, § 43(a) and § 47.

(e) A fine of thirty dollars shall be imposed for each violation of § 37(k) § 37(q) and § 53.

(f) A fine of fifty dollars shall be imposed for each violation of § 37(f) and § 65(a).

(g) A fine of one hundred dollars shall be imposed for each violation of § 39(a) and a fine of two hundred dollars shall be imposed for each violation of § 39(b).

(h) Every fine imposed in this section shall be increased by five dollars if not paid within 21 days from the date of issuance. thereafter, upon notice by the parking administrator to the Registrar of Motor Vehicles pursuant to chapter 90, § 20A 1/2 of the General Laws, the fine shall be increased by an additional fifteen dollars.

2. Section 65(a) of chapter 13 of the Revised Ordinances of the city of Worcester (1996) be and is hereby amended by deleting the sentence: "Any person who violates this section shall be fined fifteen dollars".

In City Council November 12, 2002  
Passed to be ordained by a yea and nay vote of Nine Yeas and Two Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8289**

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE REVISED ORDINANCES OF 1996  
CONCERNING HOURS OF CONSTRUCTION

Be it ordained by the City Council of the city of Worcester as follows:

I. Section 34 of chapter 8 of the Revised Ordinances of 1996 is hereby amended by deleting all references to the words "Commissioner" and "Commissioner of Public Health and Code Enforcement" and inserting in lieu thereof the words "director of public health".

II. Subsection (a) of section 34 of chapter 8 is hereby amended by deleting the words "and between the hours of 9:00 a.m. and 7:00 p.m. on Sundays", and by inserting the following new language immediately after the first paragraph:

"It shall be unlawful for any person, firm, corporation, partnership, or other entity to engage in a construction project activity on Sundays or legal holidays without a permit from the police chief issued pursuant to G.L. c.136, §§ 7 or 15 and a permit issued by the director of public health hereunder."

III. Subsection (b) (1) of section 34 of chapter 8 is hereby amended by inserting in the second sentence thereof between the word "shall" and the word "whether" the word "determine".

IV. Section 34 of chapter 8 is hereby further amended by deleting subsection (j) in its entirety and inserting in lieu thereof the following new subsection (j):

(j) This ordinance may be enforced by the director of public health; the director of code enforcement; or, the police chief.

In City Council November 26, 2002

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8290**

AN ORDINANCE AMENDING CHAPTER EIGHT OF THE REVISED ORDINANCES OF 1996  
CONCERNING MERCURY FEVER THERMOMETERS

Be it ordained by the City Council of the city of Worcester as follows:

Section 41 of chapter 8 of the Revised Ordinances of 1996 is hereby amended by deleting the following words:

"The Commissioner of the Department of Public Health and Code Enforcement or his or her designee shall be the enforcing person for purposes of this ordinance."

and inserting in lieu thereof the words:

"The director of public health or his or her designee shall be the enforcing person for purposes of this ordinance."

In City Council November 26, 2002  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
**David J. Rushford**  
City Clerk

**Amendment 8291**

AN ORDINANCE AMENDING CHAPTER FIFTEEN OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO  
NON CRIMINAL DISPOSITION ENFORCING PERSONS

Be it ordained by the City Council of the city of Worcester as follows:

Chapter fifteen, section 2 (b) (xxi) of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting the following words "enforcing person: commissioner of public health and code enforcement; police chief" and inserting in lieu thereof the following new words "enforcing persons: director of code enforcement; police chief."

In City Council November 26, 2002  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8292**

AN ORDINANCE AMENDING CHAPTER NINE OF THE REVISED ORDINANCES OF 1996 RELATIVE  
TO VACANT AND ABANDONED BUILDINGS

Be it ordained by the City Council of the city of Worcester as follows:

1. Section fourteen of chapter nine of the Revised Ordinances of 1996 is hereby amended by deleting in subsection (b) the following words "deputy commissioner" - the deputy commissioner of the Department of Public Health and Code Enforcement or his or her designee" and inserting the following words in place thereof:

**"director"** - the director of the department of code enforcement or his or her designee.

2. All subsections of section fourteen of chapter nine are hereby amended by deleting the words "deputy commissioner" each place they appear therein and inserting in lieu thereof the word "director".

In City Council November 26, 2002

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 8293**

AN ORDINANCE AMENDING CHAPTER EIGHT, SECTION THREE  
OF THE REVISED ORDINANCES OF 1996

Be it ordained by the City Council of the city of Worcester as follows:

Chapter eight, section three, subsection (b) of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting the definition of "director" in its entirety and inserting in lieu thereof the following:

"*director*" shall mean the director of public health of the city of Worcester.

In City Council November 26, 2002  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
**David J. Rushford**  
City Clerk

**Amendment 8294**

AN ORDINANCE AMENDING CHAPTER FIVE OF THE  
REVISED ORDINANCES OF 1996  
RELATIVE TO SEWER AND STORM WATER MANAGEMENT

Be it ordained by the city council of the city of Worcester as follows:

Chapter five, section six of the Revised Ordinances of 1996 is hereby amended by deleting in subsection (b) (i) the words "commissioner of public health and code enforcement" and inserting in lieu thereof the words "director of public health".

In City Council November 26, 2002  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
**David J. Rushford**  
City Clerk

**Amendment 8296**

AN ORDINANCE AMENDING  
CHAPTER THREE - PERSONNEL LEAVE ORDINANCE,  
OF THE REVISED ORDINANCES OF 1996

Be it ordained by the City Council of the City of Worcester, as follows:

**Section 1:** Notwithstanding anything to the contrary, Chapter 3, Personnel Leave of the Revised Ordinances of 1996 be and is hereby amended by deleting Section 2, Sick Leave - Amount Allowed Annually and inserting in lieu the following:

**§ 2. Amount Allowed Annually**

Any salaried official or employee of the city, irrespective of status, with the exception of officials and other employees under the jurisdiction of the school committee, and those employees on the temporary employment account, shall be allowed, without loss of pay, earned sick leave as provided for in this chapter, aggregating to not more than fifteen full work days in any year plus the accumulations hereinafter provided, except employees on the EM Schedule, who may accumulate ten and one half days in any year, effective June 1, 2003.

**Section 2:** Notwithstanding anything to the contrary, Chapter 3, Personnel Leave of the Revised Ordinances of 1996 be and is hereby amended by deleting Section 3, Sick Leave - Rate of Accumulation; Maximum Allowed, and inserting in lieu the following:

**§ 3. Rate of Accumulation; Maximum Allowed**

All persons entitled to sick leave by section two shall earn and accumulate earned sick leave credit at the rate of one and one-quarter days for each calendar month of service, except employees on the EM Schedule, who shall earn accumulate sick leave credit at the rate of 7 hours per calendar month. No person shall be allowed to accumulate unused sick leave to an amount in excess of one hundred and sixty-five days, except as authorized by their respective collective bargaining agreement or for employees on the EM Schedule, who may accumulate unused sick leave to an amount of two hundred days, effective June 1, 2003.

**Section 3:** Notwithstanding anything to the contrary, Chapter 3, Personnel Leave of the Revised Ordinances of 1996 be and is hereby amended by deleting Section 12, Administrative Leave for Officials and Employees to be Retired, and inserting in lieu the following:

## **§ 12. Administrative Leave for Officials and Employees to be Retired**

(a) Any official or employee, not subject to subsection (b) hereunder, who is eligible to retire under the provisions of chapter 32 of the General Laws and who has completed twenty years of service with the city for purposes of retirement, or who is over the minimum age to retire for superannuation under chapter 32 of the General Laws may during the last year of his/her service with the city request his/her department head to convert his/her earned sick leave credit in excess of one hundred days to administrative leave to a maximum of twenty days, or in the case of an employee on the EM Schedule, to a maximum of thirty-five days, effective June 1, 2003. The department head, upon request, shall convert such credit to administrative leave and shall grant such leave to the employee or official during his/her last year of service with the city in accordance with the needs of the city, as determined by the department head.

(b) For any employee, upon the retirement of such employee, the department head shall pay the employee as a cash bonus his converted sick leave over one hundred days, said cash bonus not to exceed an amount equal to a maximum of twenty sick leave days of the employee, unless otherwise provided for by the respective collective bargaining agreement or if the employee is on the EM Schedule, said cash bonus shall not exceed a maximum of thirty-five days, effective June 1, 2003.

**Section 4:** Notwithstanding anything to the contrary, Chapter 3, Personnel Leave of the Revised Ordinances of 1996 be and is hereby amended by inserting the following new section:

### **§13a. Sick Leave Incentive Program for Executive Management (EM) Employees**

Employees on EM Schedule who use five or less sick leave days during the sick leave year, June 1 - May 31 for all EM employees, except those in public safety departments whose sick leave year shall be January 1 - December 31, shall have the option to convert up to seven unused sick days minus the number of sick days actually used during the sick leave year at the rate of 75% of their then current pay, effective July 1, 2004.

**Section 5:** Notwithstanding anything to the contrary, Chapter 3, Personnel Leave of the Revised Ordinances of 1996 be and is hereby amended by deleting Section 14, subsection (d) of Vacation Leave - Excepted Classifications.

**Section 6:** Notwithstanding anything to the contrary, Chapter 3, Personnel Leave of the Revised Ordinances of 1996 be and is hereby amended by deleting Section 15, subsection (a) and (b), Eligibility, and inserting in lieu the following:

(a) One Week Vacation: Every qualifying full-time, intermittent, or part-time employee on Pay Schedule 1, 3A, 4A, 5, 6, 9P, 9M, or EM who has actually worked at least one day during the twelve months preceding the first day of June in any year shall be entitled to one week of vacation leave for such vacation year, provided however, that said employee shall not be allowed to take said vacation during vacation year unless he has actually worked thirty weeks or (1200 regular hours in the aggregate) with the city; if said employee fails to work thirty weeks or 1200 hours prior to the end of the

vacation year, he shall not be eligible for any vacation for that vacation year.

(b) Two Week Vacation: Every qualifying full-time, intermittent or part-time employee on pay schedules 1, 3A, 4A, 5, 6, 9P, 9M, or EM and subject to subsection (a)(1) who has actually worked at least fifty-two weeks during the twelve months preceding the first day of June shall be eligible for two weeks vacation. Every full-time, intermittent, or part-time employee on a Pay Schedule other than 1, 3A, 4A, 5, 6, 9P, 9M, or EM who has actually worked at least thirty weeks (1200 hours in the aggregate) in the service of the city during the twelve months preceding the first day of June in any year shall be entitled to two weeks vacation leave for such vacation year.

Section 7: Notwithstanding anything to the contrary, Chapter 3, Personnel Leave of the Revised Ordinances of 1996 be and is hereby amended by inserting subsection (c) in Section 23, Vacation Leave Carry-Over Prohibited:

(c) Notwithstanding the provisions of this section, employees on the EM Schedule may buy back up to seven unused vacation leave days at the end of the vacation leave year, at 75% of their then current rate of pay, effective July 1, 2004.

Section 8: This ordinance shall be effective on the dates contained herein.

In City Council December 3, 2002  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8325**

AN ORDINANCE AMENDING CHAPTER EIGHT  
SECTION TEN OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO DOG LICENSE FEES

Be it Ordained by the City Council of the City of Worcester as follows:

Chapter eight, section ten, subsection (e) of the Revised Ordinances of 1996 is hereby amended by inserting the following new language immediately after "(iv) neutered Male \$8.00":

"Any person who fails to obtain an annual dog license on or before May 31<sup>st</sup> shall be charged when applying for a license, in addition to the license fee, a late fee of fifteen (\$15.00) dollars."

In City Council February 25, 2003  
Passed to be ordained by a yea and nay vote of Ten Yeas and One Nay.

A Copy. Attest:

David J. Rushford, Clerk  
**David J. Rushford**  
City Clerk

**Amendment 8354**

AN ORDINANCE REORGANIZING  
VARIOUS BOARDS & COMMISSIONS  
OF THE CITY OF WORCESTER

Be it ordained by the City Council of the city of Worcester, as follows:

§ 1. Article One of Part Two of the Revised Ordinances establishing the Affirmative Action Advisory Committee is hereby amended by deleting the entire text of subsection 3(a) thereof and inserting in lieu thereof the following:

"The committee shall be comprised of nine members appointed by the city manager for terms of three years. The terms shall be staggered such that three terms shall expire on December 31st of each year."

§ 2. Article Six of Part Two of the Revised Ordinances establishing the Cable Television Advisory Committee is hereby amended by deleting the first and second sentences of subsection 3(a) thereof and inserting in lieu thereof the following:

"The committee shall consist of seven persons appointed by the city manager for three year terms. The terms shall be staggered such that no more than two terms shall expire on December thirty-first of any year."

§ 3. Article Thirty Six of Part Two of the Revised Ordinances establishing the Advisory Committee on the Status of Women is hereby amended by deleting the first and second sentences of subsection 3(a) thereof and inserting in lieu thereof the following:

"The committee shall consist of fifteen persons appointed by the city manager for three year terms. The terms shall be staggered such that five terms shall expire on August thirty-first of each year."

§ 4. Article Fourteen of Part Two of the Revised Ordinances establishing the Advisory Committee for Persons with Disabilities is hereby amended by deleting said article in its entirety and inserting in lieu thereof a new article fourteen as attached as Appendix A hereto.

§ 5. Article Thirty Three of Part Two of the Revised Ordinances establishing the Public Health Department is hereby amended by deleting subsection 6(a) thereof and inserting in lieu thereof the following new subsection 6(a):

The board shall consist of four members appointed by the city manager for staggered terms of three years each. The commissioner, shall serve, ex officio, as the chair of the board, but shall have no vote and not otherwise be deemed a member of the board. One member shall have received the degree of doctor of medicine from a medical school classified by the American Medical Association as a Grade A school and another member shall have received a degree in dentistry from a dental school classified by the American Medical or Dental Association as a grade A school.

§ 6. Articles Five and Twenty-Seven of Part Two of the Revised Ordinances establishing the Auditorium Department and the Board of Trustees for the Lincoln Square Memorial, respectively, are hereby repealed.

§ 7. Part Two of the Revised Ordinances is hereby amended by inserting a new Article 39A establishing a Veteran's Memorials Board as attached as Appendix B hereto.

§ 8. Existing members of any board or commission whose membership is reduced by these ordinances may serve until their terms expire. No appointments or re-appointments shall be made until the number of individuals serving on any such board or commission is less than the number authorized by these ordinances.

**Effective Date**

§ 9. In accordance with Article Six of the city charter, this reorganization ordinance shall take effect at 11:59 p.m. on the Saturday next after the date it is adopted or at the same time on May 27, 2003, whichever first occurs; unless, however, that the city council has voted to disapprove this ordinance on or before May 27, 2003.

**In City Council June 10, 2003**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**REORGANIZATION ORDINANCE APPENDIX A**  
**Commission on Disability**

**ARTICLE 14. COMMISSION ON DISABILITY**

- § 1. Establishment
- § 2. Function
- § 3. Membership
- § 4. Duties & Responsibilities
- § 5. Administration
- § 6. Acceptance of Grants

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an agency of the city to be known as the "Worcester Commission on Disability" (hereinafter "commission").

**§ 2. Function**

It shall be the function of the commission to bring about full and equal participation in all aspects of life in the city of Worcester for all people with disabilities.

**§ 3. Membership**

(a) The commission shall consist of seven members appointed by the city manager for three-year terms. The terms shall be staggered such that no fewer than two terms shall expire on May thirty-first of each year. A majority of said commission members shall consist of people with disabilities, one member may be a member of the immediate family of a person with a disability. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term.

(b) The city manager may appoint up to five associates of the commission, a majority of whom shall be persons with disabilities. The terms of associates shall expire on May thirty-first of each year and shall be staggered such that no more than two terms shall expire in any given year. Associates shall not be deemed members of the commission; however, whenever any member of the commission is absent from any meeting of the commission, associates shall, upon designation by the chairperson and by order of their appointment, fill such vacancies and shall have authority to participate and vote during such meeting. In making any such designation, the chairperson shall identify the member of the commission in whose stead the associate shall act. Should any absent member arrive at a meeting after an associate has been designated to act in his or her stead, the authority of the associate to act shall cease and the member shall take his or her place with the commission.

**§ 4. Duties & Responsibilities**

(a) The commission shall have the following powers, duties and responsibilities:

1. choose annually from among its regular members a chairperson, vice-chairperson and secretary;
2. research local problems of people with disabilities;

3. coordinate the activities of other local groups or individuals organized or committed to meet the needs of people with disabilities;
4. carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts Office on Disability;
5. review and make recommendations about policies, procedures, services and activities of city departments and agencies as they affect people with disabilities;
6. work in cooperation with city departments and agencies to bring about full and equal participation by people with disabilities;
7. advise and assist city officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities;
8. influence city policies and coordinate with programs of the Massachusetts Office on Disability;
9. encourage public awareness of disability issues;
10. provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses and organizations in all matters pertaining to disability;
11. recruit and recommend prospective commission members to the city manager; and,
12. submit an annual report to the city manager stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the status of persons with disabilities in Worcester.

(b) All actions of the commission shall be taken by majority vote of the commission members present and shall be recorded in the minutes of its meetings. No member of the commission shall claim or assert any regulatory or enforcement authority by virtue of membership on the commission. In no event shall any member of the commission claim to be acting on behalf of the commission unless such action was authorized in advance by vote of the commission.

(c) any member who fails to attend any three consecutive meetings of the commission shall be deemed to have abandoned his or her membership on the commission. The commission may then recommend to the city manager that such position be declared vacant and request that a replacement be appointed and, if the city manager concurs with that recommendation, he shall then notify the member of his or her removal and proceed to fill the vacancy.

(d) The chairperson of the commission shall have the following powers, duties and responsibilities:

- (1) establish the time, place and agenda for commission meetings in coordination with other commission members;
- (2) preside over meetings of the commission;
- (3) establish sub-committees of the commission and appoint members of the commission thereto;

(e) The vice chairperson of the commission shall exercise the powers, duties and responsibilities of the chairperson in the event of the absence of the chairperson at any commission meeting or function or in the event of a vacancy in that position.

(f) The secretary of the commission, either personally or through the assistance of the administrative personnel assigned to the commission, shall: prepare and maintain minutes of all meetings of the commission and any of its sub-committees, which minutes shall include the date, time, place, members present or absent and the actions taken; ensure that notice of all meetings is posted with the city clerk at least forty-eight hours before each meeting of the commission or any of its sub-committees; maintain a file including all the correspondence and other papers received or generated by the commission or any of its sub-committees; issue certified copies of any commission records or papers as required by law.

**§ 5. Administration**

The Office of Human Resources, or such other department or officer as the city manager may from time to time designate, shall administer the affairs of the commission.

**§ 6. Acceptance of Grants**

The commission, with the approval of the city manager and a vote of the city council as provided in G.L. c. 44 § 53A, may accept in the name of the city of Worcester grants or gifts of funds from the federal government, a charitable foundation, a private corporation, an individual, or from the commonwealth or any city, town or county thereof. All grants or gifts shall be deposited in the city treasury and may be expended without further appropriation by the commission through contracts signed by the chairperson of the commission and the city manager as required by article 5-7 of the city charter or, if the amount is less than two thousand dollars, in accordance with the regulations issued or adopted by the city manager.

**REORGANIZATION ORDINANCE APPENDIX B  
Veterans Memorials Board**

**ARTICLE 39A. VETERANS MEMORIALS BOARD**

- § 1. Establishment
- § 2. Function
- § 3. Membership
- § 4. Administration
- § 5. Rules and Regulations

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter and General Laws chapter forty-one, there is hereby established under the jurisdiction of the city manager an agency of the city to be known as the "Veterans Memorials Board" (hereinafter "board").

**§ 2. Function**

It shall be the function of the board to have care, custody and control of the Memorial Auditorium, the Lincoln Square Memorial, and such other memorial facilities as may be specifically assigned to it by the city manager and city council, including the property of the Grand Army of the Republic Post # 10 upon the enactment of appropriate legislation and receipt of judicial determinations, and to maintain all such property in its custody as proper memorials to the inhabitants of the city who served this country in the armed forces in times of war and by whose sacrifices we, now and forever, may enjoy the blessings of liberty.

**§ 3. Membership**

The board shall consist of five members appointed by the city manager for a term of five years such that one term shall expire on November eleventh of each year.

**§ 4. Administration**

The affairs of the board shall be administered by an officer or agency of the city designated by the city manager.

**§ 5. Rules and Regulations**

The board shall adopt rules of procedure governing its internal functioning and regulations governing the memorials and property under its care, custody and control. The chair of the board shall have authority to sign city of Worcester contracts in the name of the board and, by so doing, make a recommendation that the same be approved by the city manager; provided, however, that the board may, by majority vote, designate some other member of the board or the administrator designated by the city manager pursuant to section four above to execute city of Worcester contracts on behalf of said board.

**Amendment 8355**

AN ORDINANCE AMENDING CHAPTER NINE OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO  
DISORDERLY BEHAVIOR

Be it ordained by the city council of the city of Worcester, as follows:

Chapter 9, Section 1 of the Revised Ordinances of the City of Worcester (1996) be and is hereby amended by deleting the text of this section in its entirety and inserting in lieu thereof the following:

No person shall engage in fighting, threatening or violent or tumultuous behavior; or conduct that creates a riotous commotion and excessively unreasonable noise so as to constitute a public nuisance; or conduct that creates a hazardous or physically offensive condition; which behavior or conduct has the purpose of causing public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, and which serves no legitimate purpose of the actor.

In City Council June 10, 2003

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 8356**

AN ORDINANCE REORGANIZING  
VARIOUS BOARDS & COMMISSIONS  
OF THE CITY OF WORCESTER

Be it ordained by the City Council of the city of Worcester, as follows:

§ 1. Article Thirty Three of Part Two of the Revised Ordinances establishing the Public Health Department is hereby amended by deleting subsection 6(a) thereof and inserting in lieu thereof the following new subsection 6(a):

The board shall consist of four members appointed by the city manager for staggered terms of three years each. One member shall have received the degree of doctor of medicine from a medical school classified by the American Medical Association as a Grade A school and another member shall have received a degree in dentistry from a dental school classified by the American Medical or Dental Association as a grade A school. The commissioner shall not be a member of the board but shall serve, ex officio, as the chair of the board and shall have no vote unless the board be equally divided.

**Effective Date**

§ 2. In accordance with Article Six of the city charter, this reorganization ordinance shall take effect at 11:59 p.m. on the Saturday next after the date it is adopted or at the same time on July 15, 2003, whichever first occurs; unless, however, that the city council has voted to disapprove this ordinance on or before July 14, 2003. As of the date by which this ordinance becomes effective, it is the intention of the city council that this ordinance shall have precedence over the proposed reorganization ordinance submitted by the city manager to the city council on February 25, 2003 as deals with the composition of the board of health.

**In City Council June 24, 2003**

**Passed to be ordained by a Yea and Nay vote of Ten Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**

***David J. Rushford***

**City Clerk**

**Amendment 8361**

AN ORDINANCE RELATIVE TO  
ENCROACHMENTS ON THE PUBLIC WAYS

Be it Ordained by the City Council of the City of Worcester, as follows:

*Section 1.* Chapter twelve, section twenty-six, of the Revised Ordinances of 1996 is hereby amended by inserting a new subsection (i) as follows:

(i) No person shall cause, allow or maintain any personal property of any sort which is not registered as a motor vehicle under chapter ninety, section one, of the General Laws of Massachusetts (i) to occupy any area in excess of six square feet within the limits of any public way within the city or (ii) to occupy any area within the limits of any public way in such a manner as to impair the health and safety of persons traveling upon the way, unless such occupation has otherwise been permitted under authority of any other ordinance or law. Any person found in violation of either portion of this subsection shall be penalized by a fine of twenty-five (\$25.00) dollars with each calendar day constituting a separate offense.

*Section 2.* Chapter twelve, section twenty-one, of the Revised Ordinances of 1996 is hereby amended by inserting a new subsection (g) as follows:

(g) No person shall cause, allow or maintain any growth of shrubs, brush, or trees to extend onto or over any portion of any public way, including the sidewalk area between the traveled portion of the way and the boundary between the abutting property and the way, so as to impair the health and safety of the people in the vicinity of the property by making the property appear neglected or abandoned and thereby creating a public nuisance with the accumulation of trash or debris on the property, nor shall any person cause, allow or maintain any such overgrowth so as to impair the safety of pedestrians traveling on the way. Any person found in violation of this subsection shall be penalized by a fine of twenty-five (\$25.00) dollars with each calendar day constituting a separate offense.

*Section 3.* Chapter fifteen, section 2(b) (viii), of the Revised Ordinances of 1996 is hereby amended by inserting a new subsection (g) as follows:

(g) Maintaining any encroachment on the public ways - chapter 12 § 21.

Penalty: \$25.00

Enforcing Persons: commissioner of public works, commissioner of code enforcement; director of code enforcement, commissioner of public health, director of public health, any duly authorized member of the department of public health or the department of code enforcement, and, any other officer or employee of the city specifically authorized in writing by the city manager.

In City Council September 9, 2003

Passed to be ordained by a yeas and nays vote of 9 Yeas and 0 Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8387**

AN ORDINANCE REGULATING THE LEVEL OF SOUND  
IN PUBLIC PLACES IN THE CITY OF WORCESTER

Be It Ordained by the City Council of the city of Worcester as follows:

Chapter Nine of the Revised Ordinances is hereby amended by inserting the following new section 1A immediately following section 1:

**§ 1A. Excessive and Unreasonable Noise**

**(a) Findings and Declaration of Policy**

(1) **Findings.** The city council hereby finds that excessive and unnecessary noise is a significant threat to the health, welfare, safety, and the quality of life of the public; that excessive and unnecessary noise over an extended period of time leads to hearing loss; that excessive and unnecessary noise may interfere with personal communication, cause sleep disturbances, create anxiety and distress and aggressive behavior. The city council further finds that a substantial body of science and technology exists by which excessive and unnecessary noise may be substantially abated.

(2) **Declaration of Policy.** In consideration of the above findings, and recognizing that Amendment Article 97 to the Constitution of the Commonwealth of Massachusetts establishes that the people have a right to be free from excessive and unnecessary noise, it is hereby declared to be the public policy of the city of Worcester to reduce the ambient noise level in the city to safe and reasonable levels and to eliminate the episodic creation of excessive and unnecessary noise so as to preserve, protect and promote the public health, safety, welfare and peace and quiet of the inhabitants of the city, to prevent injury to human, plant and animal life and property, to foster the convenience and comfort of its inhabitants, and to facilitate the enjoyment of the natural attractions of the city.

(b) **Definitions** - For purposes of this section 1A, the following words shall have the meanings respectively set forth below:

**"A level"** means the total sound level of all noise as measured with a sound level meter using the "A" weighting network. The unit of measurement is the dB(a).

**"Ambient"** means the background level of sound immediately preceding the sound produced by the object or person under scrutiny and, when measured mechanically or electronically, is the A-weighted sound level that is exceeded 90% of the time measured during equipment operating hours.

**"Device"** means any mechanism which actually produces sound when operated or handled.

**"Motorcycle"** means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including any bicycle with a motor or driving wheel attached, except a tractor or a motor vehicle designed for carrying golf clubs and not more than four persons, an industrial three-wheel truck, or a motor vehicle on which the operator and passengers ride within an enclosed cab.

**"Motor Vehicle"** means any device which is propelled by an engine, other than a motorcycle, in or upon which a person or material may be transported on the ground and which is intended to be operated upon a public highway.

**"Person"** means any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof.

**"Plainly Audible"** means any sound that can be detected by a person using his or her unaided hearing faculties. (As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound).

**"Public Place"** shall include any public way, any private way open to public use and on the official map of the city or any way for vehicular travel in any city park, playground, public school property or land under the control of any city department.

**"Sound Level Meter"** means any instrument including a microphone, amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specific manner.

**"Sound Reproduction Device"** means any device, electronic or otherwise, which is capable of producing, reproducing or amplifying sound, including but not limited to any musical instrument, radio, television, tape recorder, compact disc or DVD player, public address ("P.A.") or other sound amplifying system.

**"Sound Signal"** means any sound produced by an electronic sound signal device designed to transmit information.

**(c) Sound Levels for Motor Vehicles**

(1) No person shall operate any motor vehicle or any sound reproduction device within any motor vehicle in such a manner that the vehicle or sound reproduction device is plainly audible in a public place at a distance of 50 feet or more in any direction from the vehicle.

(2) Except where necessary to avoid a collision with another motor vehicle or with a pedestrian, no person shall operate a horn or warning device from any motor vehicle or motorcycle such that the sound emanating from such act is plainly audible in a public place at a distance of 125 feet or more from said vehicle or motorcycle.

(3) No person shall operate any siren in any public place except authorized employees of public entities providing law enforcement, fire suppression, first responder or advanced life support services in the immediate act of responding to an emergency or engaged in a training exercise.

**(d) Sound Levels for Motorcycles**

(1) No person shall accelerate a motorcycle in such a manner as to cause any sound which is plainly audible over the ambient noise level in a public place at a distance of 50 feet or more in any direction from the vehicle.

(2) No person shall operate a motorcycle in such a manner as to exceed 82 dB(A) when operated at a speed of 45 mph or less, or in such a manner as to exceed 86 dB(A) when operated within a speed zone of over 45 mph. The sound level shall be measured by a sound level meter at a distance of fifty-five feet or more from the center lane of travel, as provided in G.L. c. 90, §7U.

(3) No person shall operate a motorcycle whose exhaust system, muffler or any other equipment or element of design incorporated into the motorcycle in compliance with federal or state laws or regulations pertaining to motorcycle noise or air pollution emissions has been removed or rendered inoperative by any person.

**(e) Sound Levels Generally**

(1) No person shall operate any electronic sound reproduction device so as to create sound which is plainly audible in a public place at a distance of 25 feet or more in any direction from the device or the premises containing the device, whichever is greater.

(2) No person shall operate any self-contained, portable, hand-held sound reproduction device in such a manner as to be plainly audible in a public place at a distance of 25 feet or more in any direction from the operator.

(3) No person shall create any sound on any street adjacent to a hospital or medical treatment facility at any time which is plainly audible at any place within 25 feet of the property of such hospital or facility or which unreasonably disturbs the comfort or repose of any person of normal sensitivities in such hospital provided a plainly visible sign has been displayed on such street indicating the presence of such hospital or medical treatment facility.

(4) No person shall create any sound on any street adjacent to any public or private school, institution of higher learning or court whenever the same is in session which is plainly audible at any place within 25 feet of the property of such hospital or facility or which disturbs the operation of any such school or the proceedings in any such court provided a plainly visible sign has been displayed on such street indicating the presence of such school or court.

(5) No person shall engage in persistent or repeated yelling, shouting, hooting, whistling, singing, or the making of other loud noises between the hours of 9:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible in any public place at a distance of 25 feet or more in any direction or so as to annoy or disturb the reasonable quiet, comfort or repose of persons in any dwelling, hotel, hospital, or other type of residence, or in any office, or of any persons in the vicinity of any such person in or on the public sidewalks, ways or other public places.

(6) No person shall operate any sound reproduction device for commercial or business advertising purposes or for the purpose of attracting attention to any performance, show or sale or display of merchandise, in connection with any commercial or business enterprise in front or outside of any building, place or premises abutting on or adjacent to a public street, park or place where the sound therefrom is plainly audible on any public street, park or place, or from any stand, platform or other structure or anywhere on the public streets, parks or places.

(7) No person shall make or cause or permit to be made or caused any music or sound originating from or in connection with the operation of any commercial establishment or enterprise when the level of sound increases the broad band sound level, when measured at the property line of the establishment, by more than 10 dB(A) above ambient, or produces a pure tone condition (a condition is created when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by three decibels or more).

(8) No person shall operate any power saw, drill, grinder, lawn mower, lawn or garden tool, or similar tool at any time between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and Saturday or between the hours of 9:00 p.m. and 9:00 a.m. on Sunday and legal holidays, such that the sound emanating from any such activity is plainly audible in a public place at a distance of 50 feet or more.

(9) No person shall operate any powered construction equipment or build, erect construct, demolish, alter, repair, excavate or engage in hoisting, grading, site work, including tree and brush removal, dredging or pneumatic hammering, or deliver construction equipment and/or supplies to the site on any building, road, tower, parking lot, machine, pipe, sewer, sidewalk, or any other construction project, except between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and Saturday, and between the hours 9:00 a.m. and 7:00 p.m. on Sundays except for work performed by a public service or municipal utility department or "emergency work" performed with the express written permission of the commissioner of code enforcement or the commissioner of public works. Emergency work shall be limited to such work that is clearly essential to response to a sudden and unexpected threat to public health or public safety. Emergency work permission may be granted to a general or sub-contractor on a blanket basis governing all persons working on a specified portion of a particular job. Emergency work permission may be granted for not more than one week at a time, and may be renewed for additional one week periods at the discretion of the commissioner who granted the initial permission.

**(f) City Contracts**

(1) On any project for the construction, reconstruction, installation, demolition, maintenance or repair of any building, or public work, to be funded in whole or in part by city funds, or funds which, in accordance with a federal or state grant, program, or otherwise, the city expends or administers, or any such project to which the city is a signatory to the contract therefor, the provisions of this section shall apply and the same shall be referenced in every invitation to bid for such project and, the following paragraphs shall be contained in every resulting contract therefrom:

"It shall be a material breach of this contract if the contractor and each subcontractor shall not at all times adhere to the provisions of § 1A(e)(9) of chapter nine of the Revised Ordinances of the city by limiting their on-site, noise producing construction and related work to the hours specified by said ordinance".

(2) The director of purchasing, commissioner of code enforcement and the head of any department shall have the authority to adopt any rules and regulations they deem necessary to implement this subsection with respect to contracts generally and the head of the department awarding any such contract shall have the authority to adopt any rules and regulations he or she deems necessary to implement this subsection with respect to any particular project.

**(g) Exemptions**

This ordinance shall not apply to:

(1) Sound from activities in the public parks, playgrounds, playing fields, or public property or buildings of the city used under the written permission of the municipal official or body charged with the care, custody and control of said facility; provided that, any amplified sound generated by such activities shall not be plainly audible at a distance of 50 feet or more from said public park, playground, playing field, or public property or building.

(2) Sound from parades, rallies, public assemblies, demonstrations, special events, sporting events or sound trucks may for brief periods reasonably exceed the sound level limits contained herein; provided, however, that no person shall increase the amplification level of the sound generated by such activities to the point where it is consistently and plainly audible in a public place at a distance of more than 50 feet from the perimeter of the property containing such activity.

(3) Sound from bells, chimes, or carillons from a structure operated for non-commercial purposes between the hours of 8:00 a.m. and 9:05 p.m., and during special events.

(4) Sound from snow blowers, snowplows, and other snow removal equipment during or immediately after a snowfall, and the use of power equipment necessary for emergency repairs or debris removal due to severe weather.

(5) Sound from trains, boats and personal watercraft operated in compliance with state law.

(6) Sound from aircraft landing, taking-off, or taxiing at Worcester Regional Airport.

(7) Sound from lawfully permitted fireworks displays.

**(h) Enforcement and Penalties**

The penalty for each violation of this section 1A shall be fifty (\$50.00) dollars. The provisions of this section 1A shall be enforced using the noncriminal disposition process as provided in General Laws, chapter 40, §21D by the chief of police and every city police officer and official and any other individual listed as an "enforcing person" under the relevant provision of chapter 15 of the Revised Ordinances.

**In City Council January 6, 2004**

**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**

***David J. Rushford***

**City Clerk**

**Amendment 8388**

AN ORDINANCE AMENDING CHAPTER FIFTEEN OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO ENFORCEMENT OF SOUND LEVEL LIMITS

Be It Ordained by the City Council of the city of Worcester as follows:

Chapter 15, Section 2(b), of the Revised Ordinances of the City of Worcester (1996) is hereby amended by inserting the following new subsection at the conclusion thereof as follows:

(xxii) Violation of any provision of the Noise Ordinance, Revised Ordinances chapter 9, § 1A.

Penalty: noncriminal disposition penalty - \$50.00

Enforcing persons: director of public health, commissioner of code enforcement, commissioner of public works; any other official or employee of the city designated in writing by the city manager.

In City Council January 6, 2004  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
**David J. Rushford**  
City Clerk

**Amendment 8389**

AN ORDINANCE AMENDING CHAPTER FOUR OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO SOLID  
WASTE AND RECYCLING

Be it ordained by the city council of the city of Worcester as follows:

Chapter 4, Section 8 of the Revised Ordinances of the City of Worcester (1996) is hereby amended by deleting said section in its entirety and inserting in lieu thereof the following new section eight:

**§ 8. Enforcement**

Any person violating any provision of this chapter or any rule or regulation of the commissioner concerning the disposal and collection of solid waste and recyclable items shall be subject to a penalty of twenty-five (\$25.00) dollars. A violation of this section may be penalized by civil process, criminal process or by noncriminal disposition as provided in General Laws, chapter 40, §21D.

In City Council September 30, 2003

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

Amendment 8390

AN ORDINANCE AMENDING CHAPTER FIFTEEN OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO SOLID WASTE AND RECYCLING

Be it ordained by the city council of the city of Worcester as follows:

Chapter 15, Section 2(b) of the Revised Ordinances of the City of Worcester (1996) is hereby amended by deleting subsection (xiv) in its entirety and inserting in lieu thereof the following new subsection:

(xiv) violation of any rule or regulation issued by the commissioner of public works pursuant to chapter 4 of the Revised Ordinances regarding the recycling and disposal of solid waste.

penalty: \$25.00  
enforcing persons: director of public health, commissioner of code enforcement, commissioner of public works

In City Council September 30, 2003  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8391**

AN ORDINANCE AMENDING CHAPTER EIGHT SECTION  
SIX OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO ILLEGAL DUMPING

Be it ordained by the city council of the city of Worcester as follows:

Chapter 8, Section 6 of the Revised Ordinances of the City of Worcester (1996) is hereby amended by deleting subsection (b) in its entirety and inserting the following new subsection (b) in lieu thereof:

(b) This section may be enforced by civil process, criminal process or by noncriminal disposition as provided in General Laws, chapter 40, §21D. The penalty for each violation of this ordinance enforced by the noncriminal disposition process shall be two hundred (\$200.00) dollars. The penalty for each violation of this ordinance enforced by civil or criminal process shall be determined by the court and shall not be more than two thousand (\$2,000.00) dollars for each offense.

In City Council September 30, 2003  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8392**

AN ORDINANCE AMENDING CHAPTER FIFTEEN OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO ILLEGAL DUMPING

Be it ordained by the city council of the city of Worcester as follows:

Chapter 15, Section 2(b), subsection (iv) of the Revised Ordinances of the City of Worcester (1996) is hereby amended by deleting this subsection in its entirety and inserting in lieu thereof the following:

- (i) Dumping on public or private property in violation of Revised Ordinances chapter 8, § 6.

Penalty: noncriminal disposition penalty - \$200.00

Enforcing persons: director of public health, commissioner of code enforcement, commissioner of public works

In City Council September 30, 2003

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*

City Clerk

**Amendment 8400**

AN ORDINANCE AMENDING SECTION 21 OF  
CHAPTER 12 OF THE REVISED ORDINANCES  
OF 1996 CONCERNING ENCROACHMENTS IN  
PUBLIC WAYS

Be it ordained by the City Council of the City of Worcester as follows:

Section 21 of Chapter 12 of the Revised Ordinances of 1996 is hereby amended by adding the following subsection (h).

(h). No person shall erect, set up or maintain any structure or shelter in or extending into any street, provided, however, that the commissioner may issue a revocable license to the Worcester Regional Transit Authority to maintain a bus shelter(s), which may contain advertising within such shelter, on the sidewalk portion of any street adjacent to a designated bus stop location(s).

Each such bus shelter shall be subject to a separate license. All requirements of the department of public works manual, as amended, are hereby deemed to be incorporated in and made a requirement of each license.

**In City Council October 14, 2003**

**Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**

***David J. Rushford***

**City Clerk**

**Amendment 8460**

AN ORDINANCE GOVERNING  
THE LOCATION OF VETERANS MEMORIALS

Be it ordained by the City Council of the city of Worcester, as follows:

§ 1. Chapter Twelve of Part One of the Revised Ordinances is hereby amended by inserting a new section 15A as follows:

**§ 15A. Veterans Memorials**

(a) No memorial, monument or metal plaque which is placed or designed as a memorial for any veteran of the armed forces of the United States shall be located or relocated on any public street, meaning the full width of the right-of-way including any sidewalk or traffic island, without the prior approval of the city of Worcester made under the terms of this ordinance.

(b) Any person seeking to locate or relocate any veterans memorial shall file a petition with the city council identifying the memorial, stating its proposed location and, for any new memorial, containing the text of the inscription proposed for the memorial. Any petitioner seeking a new veterans memorial shall submit a birth certificate establishing the residency of the veteran in whose memory the memorial is concerned and a casualty report (Form 1330) providing evidence that the veteran was either killed in action, missing in action or lost at sea. The city council may accept such other documentation as it deems acceptable to establish these qualifications. By filing any such petition, the petitioner shall agree to be bound by the terms of this ordinance should the petition be adopted by the city council and the memorial located or relocated as a result thereof.

(c) Each petition for the location or relocation of a veterans memorial shall be referred for a public hearing to the military affairs committee of the city council or such other committee or body as the city council may direct. Notice thereof, giving the time and place of such hearing, shall be mailed postpaid to all abutters and abutters to abutters to the proposed location as identified on the current assessor's lists, to the Worcester Veterans Council, to any other veterans organization designated by order of the city council. Said notice shall also be published in a newspaper published in the city not less than fourteen days before such hearing. In the event of a petition seeking the relocation of a memorial, notice shall also be sent to the family or other suitable representative of the individual responsible for the existing location of the memorial to the extent that the identity and address of such individual is reasonable ascertainable by the city clerk.

(d) Upon the conclusion of its proceedings and deliberations, the committee may amend either the proposed location for any new or relocated memorial or the proposed inscription for any new memorial and shall report its recommendation on the petition to the city council. The city council may conduct further proceedings, may further amend the petition, and shall otherwise act upon the petition in accordance with its rules. The adoption of any such petition shall be deemed to include the acceptance of a gift in trust from the petitioner of an amount, in the case of a new memorial, of one thousand five hundred dollars or such other sum as the city council may by order establish, or, in the case of the relocation of a memorial, the actual cost to the city to relocate the memorial. All such gifts shall be held in

trust by the city treasurer and expended for the procurement and installation of a granite black plaque and the maintenance, repair, or replacement of a new memorial or for the personnel, overhead and equipment necessary to relocate a memorial, as the case may be.

(e) Upon the adoption of any such petition and the establishment of a trust fund with the city treasurer, the city manager may authorize the procurement of the materials for the memorial and the installation thereof and commissioner shall have authority to impose reasonable conditions, including performance and payment bonds, on any permit issued in connection with the installation of any such memorial.

(f) In the event any member of the city council files any such petition on behalf of another person, the obligations of the petitioner under this ordinance shall be borne by the person on whose behalf the petition was filed.

(g) In the event that the city manager, or any of the city officers under the jurisdiction of the city manager, deems it advisable to locate or relocate any such memorial, the obligations of this ordinance shall apply except that in lieu of a petition the city manager may transmit his or her recommendation to that effect to the city council.

(h) The city manager or the head of any department involved in the location or relocation of memorials may adopt regulations consistent with the terms of this ordinance.

**In City Council May 11, 2004**

**Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Amendment 8496**

AN ORDINANCE AMENDING CHAPTER SEVEN  
SECTION SIXTEEN OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO WATER USER CHARGES

Be it Ordained by the City Council of the City of Worcester as follows:

1. Section Sixteen of Chapter Seven of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (c), line 2 thereof, the number "\$2.20" as it appears therein and inserting in lieu thereof the number "\$2.38".
2. Section Sixteen of Chapter Seven of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (c), line 3 thereof, the number "\$3.06" as it appears therein and inserting in lieu thereof the number "\$3.15".
3. Section Sixteen of Chapter Seven of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (e) thereof the words "eleven dollars and twenty-five cents" as they appear therein and inserting in lieu thereof the words "twenty-two dollars and fifty cents."
4. This amendment shall be effective as of July 1, 2004 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 1996.

**In City Council June 29, 2004**

**Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
City Clerk

**Amendment 8497**

AN ORDINANCE AMENDING CHAPTER FIVE  
SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO SEWER USER CHARGE

Be It Ordained by the City Council of the City of Worcester as follows:

1. Section twenty-six of Chapter Five of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof the number "\$1.90" and inserting in lieu thereof the number "\$2.61".

2. This amendment shall be effective as of July 1, 2004 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 1996.

In City Council June 29, 2004

Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
**David J. Rushford**  
City Clerk

**Amendment 8498**

AN ORDINANCE AMENDING CHAPTER NINE OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO THE DEMOLITION OF HISTORIC BUILDINGS

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter 9, Section 13(h) of the Revised Ordinances of the City of Worcester (1996) is hereby amended by deleting the word "six" in the first sentence thereof and replacing it with the word "twelve".

Section 2 Chapter 9, Section 13(i) of the Revised Ordinances of the City of Worcester (1996) is hereby amended by deleting the word "six-month" in the first sentence thereof and replacing it with the word "twelve-month".

**In City Council June 29, 2004**

**Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**

***David J. Rushford***

**City Clerk**

**Amendment 8520**

AN ORDINANCE AMENDING CHAPTER THIRTEEN OF THE  
REVISED ORDINANCES OF 1996 CONCERNING THE OPERATION OF  
MOTORIZED SCOOTERS

**Emergency Preamble**

**Whereas**, the use of motor scooters, pocket rockets and similar lightweight, generally two-wheeled vehicles capable of reaching speeds approaching forty miles per hour has created a grave danger to safety of the public on the streets and ways of the city of Worcester, and

**Whereas**, the number of these vehicles has increased rapidly and, by their nature, these vehicles are used in the summer months, and,

**Whereas**, the meeting schedule of the city council would otherwise prevent this ordinance from being ordained until a date, August 17, 2004, when much of the summer season has passed,

**Whereas**, the city council of the city of Worcester hereby finds that the protection of life and property requires immediate action to remove this danger from the streets and ways of the city of Worcester,

**Now, Therefore**, this ordinance is declared an emergency ordinance under section 2-9 of the city charter such that it shall be passed with finality in one meeting of the city council and shall, thereby, take effect immediately.

Be it Ordained by the City Council of the City of Worcester, as follows:

Chapter 13 of the Revised Ordinances of 1996 is hereby amended by inserting after Section 7 thereof a new section, 7A, as follows:

**§7A Motor Scooters Prohibited**

(a) Notwithstanding any other provision of these ordinances, any person who operates any motor scooter on any portion of any public or private street shown on the official map of the city, including the sidewalk area of any such street, or on any other public property, including schools, playgrounds and parks, within the city of Worcester, shall be fined one hundred dollars.

(b) Any person who rides as a passenger on any motor scooter operated in violation of the above shall be fined fifty dollars.

(c) Whenever any police officer observes any person in violation of this section, he or she may detain such person for purposes of the enforcement of this section and may remove such motor scooter to a secure area pending a disposition of such property by court order or otherwise by law.

(d) As used in this section, "motor scooter" shall mean any wheeled device designed for the transport of one or more persons which is powered by any type of motor, except:

- 1) any "motorcycle" or "motorized bicycle" as defined in G.L. c. 90, §1;
- 2) any vehicle registered as a motor vehicle by the registrar of motor vehicles or lawfully exempt from such registration;
- 3) any wheelchair by a person with physical disabilities or any similar mobility-assisting device used or by a person whose ambulatory mobility has been impaired by age, illness or physical ailment; or,
- 4) any vehicle owned or leased by the city of Worcester.

(e) Notwithstanding the above, this ordinance shall not prohibit the operation of any electric vehicle not capable of speeds in excess of twelve and one-half miles per hour on any paved sidewalk or marked pedestrian crosswalk.

In City Council July 6, 2004

Passed to be ordained with an Emergency Preamble by a yea and nay vote of  
Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8565**

AN ORDINANCE AMENDING CHAPTER THREE OF THE REVISED  
ORDINANCES OF 1996 RELATIVE TO VACATION CREDITS FOR  
APPOINTEES TO CERTAIN POSITIONS

Be it ordained by the City Council of the city of Worcester as follows:

Section 1. Section 15 of Chapter Three of Part One of the Revised Ordinances of 1996 is hereby amended by inserting a new sub-section, (f), as follows:

(f) *Vacation Credit for Prior Experience.* Notwithstanding the foregoing or any other ordinance or practice to the contrary, the city manager shall have authority to credit employees in any position which is not governed by civil service and included in a collective bargaining group with all or part of the time that employee served in prior city employment, or in any other prior employment, when calculating the number of weeks of vacation leave granted by this ordinance. The authority granted by this section may be exercised annually or permanently and, in the case of employees under the jurisdiction of the city council, by the city council, and in no event shall result in any employee receiving vacation leave in excess of the maximum amount of vacation leave granted by these ordinances.

Section 2. This ordinance shall take effect immediately.

In City Council September 21, 2004  
Passed to be ordained by a yea and nay vote of Ten Yeas and One Nay.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8607**

AN ORDINANCE REORGANIZING  
THE DEPARTMENTS, BOARDS & COMMISSIONS  
OF THE CITY OF WORCESTER

Be it ordained by the City Council of the city of Worcester, as follows:

§ 1. The Revised Ordinances of 1996 are hereby amended by deleting the entire text of Part Two, Organization of City Agencies, thereof and inserting in lieu thereof a new Part Two, Organization of City Agencies 2004, the text of which is attached hereto and incorporated herein by reference.

§ 2. Nothing herein shall diminish or impair any level of discretion to exercise independent judgment in the public interest as may be vested in any city officer, board or commission under state or federal law.

§ 3. The grant of authority made by these ordinances to any officer, department, division, board or commission of the city, to perform any function, operate any program, provide any service or conduct any activity, shall be deemed to be the fullest grant of public authority as may be authorized by law and, further, recognizing that these ordinances may grant authority to act in the public interest to one or more officer, department, division, board or commission of the city, the grant of authority to any one such officer, department, etc., shall not be deemed to impair or exclude the actions of any other officer, department, division, board or commission similarly authorized.

§ 4. The repeal of the ordinances accomplished by section one hereof shall not apply impair any lawful action taken under authority of the ordinances previously in effect.

§ 5. Nothing herein shall repeal or impair any executive order, directive or administrative policy issued by the city manager.

§ 6. Pursuant to Article Ten of the Home Rule Charter, General Laws chapter 43, § 5, and similar provisions of any previous city charter, nothing herein, unless expressly stated herein, shall negate or relinquish any authority granted to any officer, department, division, board or commission of the city by any special act, general law, prior charter provision, or any other legal authority in so far as the same may have provided the basis for the establishment of any city department or agency which is reestablished and continued Under Article Six of the Home Rule Charter or by any provision of the Revised Ordinances of 1996.

**Effective Date**

§ 7. In accordance with Article Six of the city charter, this ordinance shall take effect on July 1, 2005.

**In City Council December 21, 2004**

**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest: David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Revised Ordinances of the City of Worcester**

**Part Two**

**Organization of City Agencies**

**2004**

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**Article 1. Executive Office of the City Manager**

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- §17. Election Commission Division
- §18. Worcester Regional Airport Commission
- §19. Cultural Commission
- §20. Workforce Development Division

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**§ 1. Establishment**

To assist the city manager in the performance of his or her duties and responsibilities under the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Executive Office of the City Manager" ("office").

**§ 2. Function**

It shall be the function of the office to assist the city manager in the exercise the authority and responsibilities vested in the city manager by the city charter or any other source of law, including the management and operation of the human resource and economic development functions of the city.

**§ 3. Head of the Executive Office**

(a) *Office Head.* The office shall be headed by an assistant city manager ("assistant city manager") who shall be designated by, and serve at the pleasure of, the city manager.

(b) *Duties & Responsibilities.* The assistant city manager shall be responsible for the performance of the functions of the office and shall:

- (4) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the office;

- (5)supervise the personnel in the office by establishing rules, policies and practices governing the operations of the office; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the office; evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (6)act as the legislative liaison of the city by preparing the annual legislative agenda of the city and monitoring the progress of legislation approved by the city council;
- (7)keep the city manager informed of the activities and needs of the office and provide the city manager with information developed by the office which would have a material impact on the financial condition of the city;
- (8)seek the advice of the city manager prior to changing any existing policy or initiating any new program or service within the office;
- (9)prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (10) perform such other tasks and functions as may be requested by the city manager;
- (11) ensure that all actions of the office are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America;
- (12) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the office by the city manager and the city council;
- (13) determine the priorities of the office and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (14) prepare, monitor and manage the budget for the office, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (15) prepare, implement, evaluate and improve office operations, programs and projects in accordance with the goals and objectives established for the office by the city manager.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The office shall consist of the assistant city manager, a director of human resources, a economic development officer, a director of neighborhoods and housing, a director of planning and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the office shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

#### **§ 5. Organization of the Executive Office**

(a) *Establishment of Divisions.* The office shall be organized into the following divisions for the following purposes:

*Administration Division* - to assist the city manager in the performance of the duties and responsibilities of city manager by providing administrative, communications, scheduling, research and support services and to assist the assistant city manager in the performance of the duties and responsibilities as the of the head of the office;

*Human Resources Division* - to administer the human resources activities of the city, including personnel administration, collective bargaining, affirmative action, group insurance, employee training and education, workers compensation and injured-on-duty;

*Economic Development Division* - to administer the economic development agenda and programs of the city; to promote, develop and expand investment and employment in the city; and, to secure the commitment of private capital into new or existing businesses in the city;

*Neighborhoods & Housing Division* - to develop and administer programs to improve the quality of life in the neighborhoods of the city, including the policies of the city on housing and homelessness;

*Brownfields Remediation Division* - to administer and coordinate all federal, state and local programs involving the preparation of property for real estate investments and developments through the remediation or removal of contaminated buildings, soils or substances;

*Marketing Division* - to develop, manage, implement and promote a city marketing plan by which those outside of Worcester find Worcester a positive, attractive and economical, diverse and tolerant place to live, work and visit;

*Planning & Regulatory Services Division* - to provide all city departments with master planning, neighborhood planning and project planning and analysis and to administer, advise and assist the planning board, zoning board of appeals and historical commission in the performance of their public responsibilities; and,

*Cable Television Division* - to administer the cable television franchise agreement, disburse funds received by that agreement and operate the government access channel.

*Election Commission Division* - to provide administrative and operational support to the board of election commissioners established under article seven of the home rule charter.

*Workforce Development Division* - to administer the workforce development programs of the state and federal governments.

(b) Duties & Responsibilities of Division Heads. In addition to the special duties and responsibilities stated below for each division of the office, the head of each division shall also have the duty and responsibility to:

- (1)assist the assistant city manager in the performance of the duties and responsibilities of the head of the office and perform such other duties as may be assigned or requested by the assistant city manager or otherwise prescribed by law;
- (2)manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the assistant city manager;
- (3)supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level authorized by the assistant city manager up to and including suspensions for no more than five working days;
- (4)administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5)keep the assistant city manager informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6)recommend to the assistant city manager implementing the rules, policies and practices governing the operations of the office as are approved by the commissioner; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the assistant city manager;
- (7)ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the assistant city manager;

- (8) make recommendations to the assistant city manager on changing or initiating any policy, operation, program or service to the public;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the assistant city manager; and,
- (10) maintain any property assigned to the division by the assistant city manager.

(c) *Management of Multiple Divisions.* The assistant city manager, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the office.

#### **§ 6. Administration Division**

(a) *Division Head.* The director of administration of the executive office of the city manager shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties and Responsibilities.* The director of administration of the executive office of the city manager shall:

- (1) provide administrative, communications, scheduling, research and support services to the city manager;
- (2) manage the processing of payroll, purchasing, contracts, and personnel documentation for the office;
- (3) assist the assistant city manager in the performance of his or her duties and responsibilities as the head of the office; and,
- (4) perform the duties and responsibilities described in section 5(b)(1-10) above.

#### **§ 7. Human Resources Division**

(a) *Division Head.* The director of human resources shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties and Responsibilities.* The director of human resources shall:

- (1) act as the personnel administrator under authority delegated to the city by the agreement dated between the city and the department of personnel administration of the commonwealth;
- (2) plan, administer and direct all phases of the personnel plan, including wage and salary administration, position classification, sick and vacation leave, accident prevention and safety programs, physical examination program, personnel transactions and record keeping in accordance with the applicable rules and regulations, ordinances and statutes;

- (3)conduct collective bargaining on behalf of the city manager;
- (4)review and advise the chief financial officer on all departmental requests for personnel and determine before any employee shall be hired, reinstated, promoted or transferred that:
  - (A)there exists a vacant position in the table of authorized positions for such employee;
  - (B)the proposed salary for such employee is in accordance with the salary ordinance;
  - (C)there is compliance with applicable laws, including the civil service laws, rules and regulations; and,
  - (D)the city manager has approved such employment.
- (5)develop and revise personnel policies and practices and recommend same to the city manager;
- (6)advise and inform city department heads, officials and employees, and other interested parties, relative to all aspects of the human resources programs and activities;
- (7)administer the grievance procedure for employees
- (8)administer the disciplinary system of the city at all levels below the city manager or other appointing authority;
- (9)administer the personal property damage fund;
- (10) train and develop city employees;
- (11) serve as the city manager's advisor on equal opportunity matters in conjunction with the city's Human Rights Commission;
- (12) implement the policy of equal employment opportunities contained in the city affirmative action plan;
- (13) receive, review and make recommendations to the city manager on affirmative action programs, goals, objectives and timetables;
- (14) manage the activities of the city physician;
- (15) administer, review, monitor, evaluate and investigate workers' compensation claims (G.L. chapter one hundred and fifty-two) filed by city employees;
- (16) administer, review, monitor, evaluate and investigate injured-on-duty claims (G.L. chapter forty-one, section one hundred eleven F) filed by city employees;
- (17) administer the city's light duty programs;
- (18) comply with all reporting requirements of the Division of Industrial Accidents and make appropriate presentations to that division;
- (19) review all applications for disability retirements;

- (20) request the city solicitor to provide legal representation in all cases where the law requires the city to be represented by an attorney and inform the assistant city manager in all other cases where the director of human resources believes the assistance of the city solicitor would be advisable;
- (21) monitor and evaluate the city's personnel hiring employment patterns and practices; contract compliance efforts; fair housing policies and programs; permanent jobs; program benefits; and, program accessibility for the disabled covered under § 504 of the Rehabilitation Act;
- (22) collect and analyze data relative to equal employment opportunity for city departments and local offices; compliance of contract funded in part or in whole by city funds; fair housing; permanent jobs; program benefits; and, § 504 requirements with respect to employment in all city departments and offices;
- (23) provide equal opportunity technical assistance to city department heads;
- (24) administer the affairs of the affirmative action advisory committee established under these ordinances, attend all of its meetings, summarize comments made and policy suggestions decided upon, and submit quarterly reports to the Massachusetts Commission Against Discrimination;
- (25) serve as the city manager's coordinator on § 504 of the Rehabilitation Act of 1973;
- (26) administer the group health and life insurance programs by:
  - (A)authorizing and preparing all payments of premiums and cost reimbursement to the city's insurance carriers and computing the shares due from the employees' account and the city's account and coordinating matters involving payroll deductions and cash payments with the city treasurer;
  - (B)processing and approving all changes to existing group memberships and maintaining records of such members
  - (C)administering policies and procedures related to the delivery of group health insurance benefits;
  - (D)resolving problems of group membership and coverage which may be encountered by city subscribers and processing any necessary forms to correct problems;
  - (E)providing clear and comprehensive information to employees, retirees and departments concerning their benefits and options and advising employees and retirees on matters related to group insurance;
  - (F)propose, research, evaluate and implement programs and systems concerning cost control and containment in the areas of group insurance, worker's compensation and injured on duty;
  - (G)review contract and proposals from insurance carriers and to provide recommendations to the city manager regarding rates and terms of contracts; and,

- (H)research and envelope alternate programs of health care delivery and financing for city employees and retirees including researching and preparing legislative reform recommendations regarding state mandated programs and provisions concerning group insurance benefits.
- (27) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 8. Affirmative Action Advisory Committee**

(a) *Establishment of the Affirmative Action Advisory Committee.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Affirmative Action Advisory Committee" ("committee").

(b) *Membership.* The committee shall be comprised of nine members appointed by the city manager for terms of three years. The terms shall be staggered such that three terms shall expire on December 31st of each year. Nominations will be considered from organizations concerned with issues of equal opportunity in employment, housing and contract compliance, minority business enterprise, program benefits, permanent jobs and handicapped accessibility.

(c) *Duties & Responsibilities.* The committee shall:

- (1)provide the city manager annually with a report on the implementation and attainment of the goals established by the fair housing, equal employment and contract compliance plans of the city;
- (2)advise the city manager annually of its recommendations on establishing new affirmative action, equal opportunity and inclusionary programs and practices or revising such existing programs;
- (3)perform such other related duties as required by the city affirmative action program.

**§ 9. Economic Development Division**

(a) *Division Head.* The economic development officer shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties & Responsibilities.* The economic development officer shall:

- (1)attract the investment of private capital into new or existing businesses so as to expand the tax base and employment levels of the city;
- (2)administer the business and economic development laws and programs of the state and federal governments;

- (3)administer any and all contracts entered into by the city for business or economic development purposes;
- (4)develop and administer the environmental remediation programs of the city;
- (5)assist private property owners seeking to remediate environmental contamination on their property by providing information, assistance with filing grant applications and, where appropriate, assistance in the form of grants of city funds or funds administered by the city;
- (6)administer the performance of environmental testing and remediation activities on city properties for all city departments and agencies, including the Worcester Redevelopment Authority, as requested by the assistant city manager;
- (7)develop and administer the marketing program of the city and to promote Worcester as a place for conventions, tourism and travel;
- (8)administer the executive functions of the Worcester Redevelopment Authority in accordance with the directives of the city manager and the by-laws of that agency; and,
- (9)perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 10. Neighborhoods & Housing Division**

(a) *Division Head.* The director of neighborhood development shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties & Responsibilities.* The director of neighborhood development shall:

- (1)administer the community development block grant program in accordance with the entitlements and requirements of the Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq., as amended, and the regulations adopted under authority thereof at 24 C.F.R. 570. (see, 24 C.F.R. 507.206);
- (2)administer state and federal grant programs which provide home ownership and housing opportunities and assistance for persons of low and moderate income;
- (3)develop policy recommendations on housing and homelessness and administer such policies as directed by the assistant city manager;
- (4)ensure that residents enjoy the full advantage of neighborhood programs involving community policing, local law enforcement, neighborhood alert centers, neighborhood grime watches, community health, targeted cities initiatives, elder services and basic family preservation services;

- (5) attend various neighborhood and community group meetings as directed by the assistant city manager;
- (6) perform planning, urban environmental design and policy-planning-management-capacity building activities under the community development block grant program (see, 24 C.F.R. 507.205) to the extent those activities are consistent with the housing functions of the division;
- (7) process applications for grants from federal, state and private sources to be expended for housing and related needs by the department or by other appropriate city agencies for the public purposes for which those activities have been established and organized under law; and,
- (8) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Grants and Program Activities.* When directed by the city manager, the division shall be authorized to monitor the implementation of any grant received and, in so doing to charge the grant proceeds with any administration fee authorized by law. The division shall not be the recipient of the proceeds of any grant awarded through the performance of its duty to process applications for grants from federal, state and private sources unless such grant provides funds for a programmatic activity under the responsibility of the office and the expenditure of such grant proceeds is approved by the city manager.

#### **§ 11. Planning and Regulatory Services Division**

(a) *Division Head.* The director of planning shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties & Responsibilities.* The director of planning shall:

- (1) provide the city manager and such other officers, employees, boards and commissions of the city as directed by the city manager or otherwise by law, with advice on planning and land use patterns in the city by:
  - (i) performing the planning, urban environmental design and policy-planning-management-capacity building activities prescribed in the community development block grant program (see, 24 C.F.R. 507.205) to the extent those activities are consistent with the land use planning and economic development functions of the office;
  - (ii) maintaining the official map of the city in accordance with the laws of the commonwealth; and,
  - (iii) maintaining an accurate copy of the zoning map in accordance with the zoning ordinance;
- (2) provide the city manager with recommendations on useful changes to the official map of the city or the zoning map or zoning ordinance of the city;

- (3) administer the affairs of the perform any and all functions as may be lawfully delegated by any board or commission of the city to the director of planning; and,
- (4) serve as the clerk and keeper of the records of the planning board, zoning board of appeals and historic commission; and,
- (5) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Delegation of Duties to the City Planner.* The director of planning may delegate any duty, responsibility or authority vested in that position by these ordinances, or any other law, to the city planner.

(d) *Planning & Urban Environmental Design Activities.* In performing the planning, urban environmental design and policy-planning-management-capacity building activities under the community development block grant program (see, 24 C.F.R. 507.205), the division may gather data, conduct studies and analysis and otherwise prepare the following plans: comprehensive plans; community development plans; and, functional plans in areas such as economic development, land use and urban environmental design, housing, open space and recreation, energy use and conservation, floodplain and wetlands management, transportation, utilities, historic preservation.

(e) *Official Map.* The official map of the city shall contain only those public ways, private ways and parks as authorized by section 81E of chapter 41 of the General Laws. The director of planning shall keep a true and accurate copy of the official map and is hereby authorized to certify as true copies and issue the official map of the city or any portion thereof. The director of planning shall revise the official map with lines or notations showing proposed, new, altered, relocated or discontinued public ways and new, altered or discontinued boundaries of parks and playgrounds, as may from time to time result from any action of the city council or otherwise by operation of law. The director of planning, either directly or through subordinates, shall cause all changes or additions to the official map to be recorded in the Worcester District Registry of Deeds and filed with the city clerk and the state agency designated by statute to receive said filings.

(f) *Zoning Map.* The director of planning shall maintain a true and accurate copy of the zoning map of the city, as the same may be amended from time to time by action of the city council, and shall, either directly or through subordinates, certify as true copies and issue the zoning map of the city or any portion thereof. The director of planning shall revise the zoning map to show changes made by any amendments to the zoning ordinance adopted by the city council or otherwise by operation of law. The director of planning, either directly or through subordinates, shall cause all amendments to the zoning map to be recorded in the Worcester District Registry of Deeds and filed with the city clerk.

## **§ 12. Planning Board**

(a) *Establishment of the Planning Board.* Under authority of General Laws, chapter forty-one, section eighty-one A, and Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a regulatory board of the city to be known as the "Planning Board".

(b) *Duties & Responsibilities.* It shall be the duty and responsibility of the planning board to exercise the authority granted to it the subdivision control law, and any other applicable general or special law, and the city wetlands ordinance, and any other applicable city ordinance.

(c) *Membership.* The planning board shall consist of five members appointed by the city manager for a term of five years such that one term shall expire on May thirty-first of each year.

### **§ 13. Zoning Board of Appeals**

(a) *Establishment of the Zoning Board of Appeals.* Under authority of Article Six of the Home Rule Charter and General Laws chapter forty A, section twelve, there is hereby established under the jurisdiction of the city manager a regulatory board of the city to be known as the "Zoning Board of Appeals" ("zoning board").

(b) *Membership.* The zoning board shall consist of five members appointed by the city manager for terms of five years. The terms of such members shall be staggered such that one term shall expire on December thirty-first of each year. The members so appointed shall be designated regular members at the time of their appointment.

(c) *Associate Members.* The city manager shall also appoint two individuals to serve as associate members of the zoning board. The terms of associate members shall be five years and shall expire on December thirty-first. The associate members terms shall be staggered such that the term of the second associate member shall expire on the December thirty-first two years after the expiration of the term of the first associate member.

(d) *Duties & Responsibilities.* The zoning board shall:

- (1)hear and decide land use matters properly brought before it under the zoning ordinance of the zoning act, G.L. chapter forty A;
- (2)carry-out the duties and responsibilities vested in the zoning board by the city zoning ordinance;
- (3)exercise the jurisdiction provided by section eighty-one Z of chapter forty-one of the General Laws;
- (4)adopt rules not inconsistent with the zoning ordinance for the conduct of its business and to file a copy of its rules, together with any amendments as they are adopted, with the city clerk;
- (5)elect annually a chair from one if its regular members; and,
- (6)perform such other duties as may be prescribed by law.

#### § 14. Historical Commission

(a) *Establishment of the Historical Commission.* Under authority of General Laws, chapter forty C, sections four and fourteen, and chapter forty, section eight D, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Historical Commission" ("commission").

(b) *Establishment of Massachusetts Avenue & Montvale Historic Districts.* Under authority of General Laws, chapter forty C, section three, there are hereby established historic districts to be known as the "Massachusetts Avenue Historic District" and the "Montvale Historic District", both being shown on maps bearing their respective titles and on file with the city clerk and made a part hereof.

(c) *Membership.* The commission shall consist of six regular members and two alternates appointed for terms of three years by the city manager in accordance with the requirements of the city charter and the provisions of this section. The terms shall be staggered such that two terms of regular members shall expire every December thirty-first. The terms of alternate members shall be staggered such that the terms shall expire on December thirty-first on successive years and none shall expire every third year. One member shall be a resident of the Massachusetts Avenue Historic District and one member shall be a resident of the Montvale Historic District. All members and alternates shall have demonstrated a special interest, competence or knowledge in historic preservation. To the extent available in the charter appointment districts, members of the commission shall be professionals in the disciplines of architecture, history, architectural history, prehistoric archaeology, historic archaeology, urban planning, American studies, American civilization, cultural geography and cultural anthropology. In case of absence, inability to act or unwillingness to act because of self-interest on the part of any member of the commission, his or her place shall be taken by an alternate member designated by the chair.

(d) *Duties & Responsibilities.* To preserve, promote and develop historic assets of the city in accordance with law, the commission shall:

- (1) administer the Massachusetts Avenue Historic District and the Montvale Historic District, and any additional historic districts lawfully established, consistent with General Laws;
- (2) issue certificates of appropriateness, certificates of nonapplicability, and certificates of hardship with respect to construction or alteration of buildings and structures within the historic district when such construction or alteration affects exterior architectural features. Such certificates shall be issued as prescribed in the General Laws, chapter forty C, section six;
- (3) consider factors as prescribed in General Laws, chapter forty C, section seven, in passing upon matters before it;

- (4) issue such certificates, make such recommendations, keep such records and have such powers, functions and duties as are prescribed in General Laws, chapter forty C, section ten, except that officers and employees necessary for the proper administration of the commission shall be appointed and removed by the city manager in accordance with the city charter; and all gifts shall be subject to approval of the city manager and city council;
- (5) call and conduct meetings and to hold such public hearings as are prescribed in General Laws, chapter forty C, section eleven;
- (6) conduct research for places of historic value, to coordinate the activities of unofficial bodies organized for similar purposes, to advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it deems necessary for its work, and to make such recommendations as are described in General laws, chapter forty C, section eight D;
- (7) propose from time to time to the city manager as it deems appropriate, the establishment in accordance with the provisions of this Article and the General Laws, chapter forty C, section three, of additional historic districts and changes in historic districts;
- (8) determine an appropriate system of markers for selected historic sites and buildings not already sufficiently marked, to arrange for preparation and installation of such markers, and to arrange for the care of historic markers;
- (9) advise the redevelopment authority, planning board and any other city department or agency in matters involving historic sites and buildings;
- (10) cooperate with and enlist assistance from the National Park Service, the National Trust of Historic Preservation, and other agencies, public and private, concerned with historic sites and buildings;
- (11) advise owners of historic buildings in Worcester on problems and solutions of preservation; and
- (12) perform such other duties as may be prescribed by law.

(e) *Advisory Board.* The commission may recommend to the city manager from time to time as needed, appointment of advisory committees of historians and persons experienced in architecture or other arts or in historic restoration or preservation to assist the commission.

(f) *Rules & Regulations.* The commission, under the authority of General Laws, chapter forty C, shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein, and may adopt and amend such rules and regulations not inconsistent with the provisions of chapter forty C and prescribe such forms as it shall deem desirable and necessary for the regulation of its affairs and the conduct of its business.

(g) *Maintenance & Repair.* Nothing in this section shall be construed to prevent the ordinary maintenance and repair of buildings, structures or grounds within the district nor prevent actions by duly authorized public officers as described in General Laws chapter forty C, section nine.

(h) *Appeals.* Any applicant aggrieved by a determination of the commission may file a written request with the commission for review by person or persons of competence and experience in such matters designated by the Central Massachusetts Regional Planning Commission as prescribed in the General Laws, chapter forty C, section twelve, and may further appeal such determination to the superior court as prescribed in the General Laws, chapter forty C, section twelve A.

#### **§ 15. Cable Television Division**

(a) *Division Head.* The cable administrator shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties and Responsibilities.* The cable administrator shall:

- (1) administer the cable television franchise agreement and monitor the activities of the cable franchise operator;
- (2) after consultation with the cable television advisory committee, make recommendations annually to the director as to the disbursement of the funds received under the cable franchise agreement among the public, educational and government channel operations;
- (3) coordinate as necessary with the director of technical services to ensure that any institutional network provided under any cable franchise agreement operates properly and meets the technical requirements of the city for the internal transmission of data among city offices; and,
- (4) administer and keep the records of the cable television advisory committee.

#### **§ 16. Cable Television Advisory Committee**

(a) *Establishment of the Cable Television Advisory Committee.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Cable Television Advisory Committee" ("committee").

(b) *Membership.* The committee shall consist of seven persons appointed by the city manager for three year terms. The terms shall be staggered such that no more than two terms shall expire on December thirty-first of any year.

The city manager shall designate from the membership of the committee a chair and vice-chair.

(c) *Duties & Responsibilities.* The committee shall:

- (1) advise and assist the city manager in the performance of the duties and responsibilities vested in the city manager by law as the licensing authority for cable television franchises in the city;
- (2) provide advice concerning public, governmental, educational, and other access programming on cable television;
- (3) meet periodically with the licensee, concerning matters of interest between the licensee, the public, the city manager as issuing authority, and the city;
- (4) report to the city manager regarding compliance by the licensee with the terms and conditions of the license, and to provide advice concerning the same;
- (5) render advice and suggestions concerning local, educational and governmental origination programming;
- (6) supervise the licensee's manner of responding to, and of resolving, complaints by members of the public;
- (7) respond to inquiries by members of the public regarding cable television matters; and,
- (8) provide the city manager an annual report stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the cable television matters under its jurisdiction.

#### **§ 17. Election Commission Division**

(a) *Division Head.* The executive director of the election commission shall head the division, which shall consist of the executive director and such other personnel as shall be assigned by the assistant city manager.

(b) *Duties and Responsibilities.* The executive director shall:

- (1) provide administrative and operational support to the board of election commissioners established under article seven of the home rule charter;
- (2) administer and keep the records of the board of election commissioners;
- (3) coordinate the services required of other city departments for the conduct of any election; and,
- (4) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 18. Worcester Regional Airport Commission**

(a) *Establishment.* Under authority of the General Laws, chapter ninety, section fifty-one D, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Worcester Regional Airport Commission" ("commission").

(b) *Membership.* The commission shall consist of seven members appointed by the city manager for three year terms. At least one member shall have experience in aeronautics. The terms shall expire on May 31st of each year and shall be staggered such that two terms shall expire each year for two years and three terms shall expire every third year.

(c) *Duties & Responsibilities.* The commission shall:

- (1) have care, custody and control of the aviation facilities of the city known as Worcester Regional Airport at James D. O'Brien Field;
- (2) provide general administration and supervision over the activities of the Massachusetts Port Authority as the contractual operator of the airport;
- (3) promulgate rules and regulations for the use of the airport under the authority of chapter ninety, section fifty-one J of the General Laws;
- (4) perform all duties prescribed for the commission by chapter ninety, sections fifty-one D through fifty-one N of the General Law;
- (5) seek the approval of the Massachusetts Aeronautics Commission whenever necessary or advisable; and,
- (6) perform such other duties as may be prescribed by law.

(d) *Executive Officer.* The city manager shall appoint an executive officer of the commission who shall be qualified by general management experience and aeronautical knowledge and shall serve at the pleasure of the city manager. The executive officer shall administer the affairs of the commission and be the clerk of the commission and shall, under the direction of the commission, supervise, under the auspices of the airport operating agreement with the Massachusetts Port Authority, such personnel at the airport as the city council, with the advice of the city manager, shall from time to time authorize.

**§ 19. Cultural Commission**

(a) *Establishment of Cultural Commission.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Cultural Commission" ("commission").

(b) *Membership.* The commission shall consist of nine members who shall be appointed by the city manager for a term of three years. The terms shall be staggered such that three terms expire on December thirty-first of each year. The city manager shall from time to time designate one of the members of the commission its chair.

(c) *Duties & Responsibilities.* The commission shall:

- (1) promote the cultural affairs of the city;
- (2) conduct studies and research and publish reports on cultural activities;
- (3) cooperate with federal and state cultural agencies;
- (4) advise municipal agencies of cultural matters;
- (5) allocate any funds received by the commission for cultural projects, programs or activities in accordance with law; and,
- (6) perform such other duties as may be prescribed by law.

## **§ 20. Workforce Development Division**

(a) *Division Head.* The director of workforce development shall head the division and shall have the assistance of such personnel as shall be assigned by the commissioner. Unless otherwise required by law, the director shall be appointed by and serve at the pleasure of the city manager.

(b) *Duties & Responsibilities.* The director of workforce development shall:

- (1) administer and manage the programs and activities of the division under the general superintendence of the commissioner;
- (2) administer the Job Training and Partnership Act Program for the service delivery area which includes the city, such administration shall include: planning; contract development and negotiation; monitoring and evaluation; management information system maintenance; and program and fiscal management;
- (3) exercise such authority as may be provided by the Job Training Partnership Act or any federal or state law regarding employment programs;
- (4) direct and control the staff of the office;
- (5) provide the staff assistance needed by the Regional Employment Board;
- (6) review and analyze existing and proposed employment and training programs and projects;
- (7) provide advice and counsel to city agencies on employment and training planning matters;
- (8) coordinate employment and training programs;

- (9) keep the city manager advised on employment matters, including the Worcester area job market, existing proposed programs, federal and state legislation on employment, and employment trends;
- (10) prepare and keep current an inventory of employment and training programs in Worcester;
- (11) monitor and evaluate the effectiveness of existing employment and training programs in Worcester;
- (12) act as the primary contact between the U.S. Department of Labor and the commonwealth; and
- (13) perform the duties and responsibilities described in section 5(b)(1-10) above.

**Article 2. Department of Administration & Finance**

- § 1. Establishment
  - § 2. Function
  - § 3. Head of Department
  - § 4. Authorized Positions
  - § 5. Organization of Department
  - § 6. Assessing Division
  - § 7. Budget Office Division
  - § 8. Grants Acquisition Division
  - § 9. Purchasing Division
  - §10. Technical Services Division
  - §11. Treasury and Collections Division
  - §12. Trust Funds Commission
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Administration & Finance" ("department").

**§ 2. Function**

It shall be the function of the department to direct and coordinate all matters relating to the funds and finances of the city, excepting those under the legal auspices of the city auditor; said functions to include the preparation and management of the city budget, the assessment and collection of all city taxes, excises, betterments, assessments, fees, fines and penalties, the award of contracts for the acquisition of goods, supplies, services and property, the application for grants from any source and the management of the electronic information communications and processing systems.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the chief financial officer of the city who shall be appointed by, and serve at the pleasure of, the city manager.

(b) *Duties & Responsibilities.* The chief financial officer shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department and its divisions;

- (2) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;
- (4) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (5) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (6) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (7) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America;
- (8) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council;
- (9) determine the priorities of the department and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (10) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (11) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

#### § 4. Authorized Positions

(a) *Table of Authorized Positions.* The department shall consist of the chief financial officer, city assessor, city treasurer and collector, purchasing agent, chief information officer, director of grants acquisitions and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

#### § 5. Organization of Department

(a) *Establishment of Divisions.* The department shall be organized into the following divisions for the following purposes:

*Assessing Division* - to provide tax assessment services for the city;

*Budget Office Division* - to prepare the city operating and capital budgets, ensure that all expenditures conform such budgets, to provide estimates of the cost of new programs or policy changes and to make projections concerning the financial health of the city and to assist the director in the performance of duties and responsibilities as the of the head of the department;

*Grants Acquisition Division* - to oversee the preparation and filing of applications for grants funds for all departments of the city;

*Purchasing Division* - to make the purchases for all departments, boards, commissions and agencies of the city, including the school department;

*Technical Services Division* - to provide information management and support services to all city agencies including, but not limited to, the planning, analysis, development and support of information systems, including a geographic information system, for all agencies of the city, including the school department as assigned;

*Treasury & Collections Division* - to receive, collect, manage and disburse all funds of the city in accordance with law.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division shall also have the duty and responsibility to:

- (1) assist the chief financial officer in the performance of the duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the chief financial officer or otherwise prescribed by law;

- (2)manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, director of administration & finance, the city auditor or the chief financial officer;
- (3)supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the director up to and including suspensions for no more than five working days;
- (4)administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;

- (5)keep the chief financial officer informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6)implement the rules, policies and practices governing the operations of the department as are approved by the chief financial officer; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the chief financial officer;
- (7)ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the chief financial officer;
- (8)make recommendations to the chief financial officer on changing or initiating any policy, operation, program or service to the public;
- (9)prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the chief financial officer; and,
- (10) maintain any property assigned to the division by the chief financial officer.

(c) *Management of Multiple Divisions.* The chief financial officer, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the department.

## **§ 6. Assessing Division**

(a) *Division Head.* The city assessor shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The city assessor shall:

- (1)make an assessment of all the taxable properties in the city and place the list of taxes, together with itemized lists of real estate in duplicate, ready for mailing, with the warrant for the collection of same, in the hands of the city treasurer within thirty days of determining the tax rate in each year and on or before the first day of every ensuing month lists of all additional or supplementary assessments made during the preceding month, together with warrant for their collection;
- (2)prepare lists of the amounts taxes or abatements of taxes, including notations of the amounts thereof which have not been included in any previous statement, and provide copies of those lists to the city treasurer and city auditor
- (3)perform all duties prescribed by the general laws, including chapter fifty-nine, and any special act applicable to the city;

- (4) have care and custody of all books, papers and documents belonging to the division and shall deliver the same to his or her successor in office;
- (5) keep records of all official transactions; and,
- (6) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Notices of Exemption or Abatement Eligibility.* The city assessor shall, at the time he commits the tax list to the city treasurer for collection, include therewith a notice to taxpayers containing information in regard to eligibility and requirements for a tax exemption or tax abatement, as follows:

- (1) Such notices shall be made a part of or otherwise included with each tax notice and shall inform taxpayers that they may be eligible to receive a tax exemption or tax abatement if they fall within certain categories as are described within G.L. chapter 59, § 5; that in addition thereto, the said notice shall contain a brief statement that the subject categories as are described by G.L. chapter 59, § 5 include, but are not limited to, the following examples:
  - (A) widows or minor children of a deceased father;
  - (B) veterans with disability rating of ten per cent or more or who have suffered certain injuries or been awarded certain medals for distinguished service; that wives, unmarried widows and surviving parents of certain veterans may also be eligible for an abatement;
  - (C) blind persons;
  - (D) persons over seventy years of age;
  - (E) a spouse of a police officer or firefighter killed in the line of duty;
  - (F) minor children of police officer or firefighter killed in the line of duty if the mother or father of the said children is also deceased;
  - (G) persons who are not able to pay taxes due, because of age, infirmity and poverty;
  - (H) certain persons, age sixty-five or over, may be eligible to postpone payment of all or a portion of real estate taxes, when a tax deferral and recovery agreement has been entered into with the city assessor;
  - (I) a person who believes that he has been assessed at more than his just proportion or that the property has been assessed in excess of its fair cash value.

- (2) Said notice in addition to these matters described within subsection shall include therein a brief statement informing taxpayers that applicants for exemption or abatement must meet certain statutory requirements; that such requirements may vary according to the particular exemption or abatement sought; that information concerning eligibility may be obtained from G.L. c. fifty-nine, section five, or by request to the city assessor. That the requirements may include, but are not limited to, the following examples:
- (A) residence and/or domicile within the commonwealth for certain time periods;
  - (B) financial resources within certain prescribed limits;
  - (C) age restrictions as to applicants for certain exemptions or abatements.
- (3) Said notice shall further include a brief statement informing taxpayers that applicants for exemption or abatement are required by law to make application on official forms; said notice shall also include the address and phone number of the office where such forms are available; that by law, such applications are required to be filed within certain time periods; that the specific time for filing applications for the various exemptions or abatements is printed on each tax bill or otherwise include with each tax bill and that further assistance in this regard is available from the city assessor.

## **§ 7. Budget Office Division**

(a) *Division Head.* The chief financial officer shall head the division and shall have the assistance of such other personnel as shall be assigned by the city manager.

(b) *Duties and Responsibilities.* The chief financial officer shall:

- (1) assist the city manager in the preparation, submission and explanation of the annual budget and the five year annual capital outlay program as required by Article 5 of the city charter and with submission and explanation thereof to the city council;
- (2) assist the city manager in the preparation, submission and explanation of any supplemental budget or transfer of appropriation as authorized by article five of the city charter;
- (3) review and approve for the approval of the city manager all purchase orders, requests for personnel and capital expenditure requests;
- (4) keep records of all budget entries and transactions;
- (5) manage the processing of payroll, purchasing, contracts, and personnel documentation for the department; and,

- (6)perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 8. Grants Acquisition Division**

(a) *Division Head.* The director of grants acquisition shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The director of grants acquisition shall:

- (1)identify federal, state and private grant programs which could be employed to fund existing or new city operations;
- (2)advise city departments of the eligibility requirements and deadlines and the operational requirements and obligations involved in any grant;
- (3)advise the chief financial officer and the department or division for which the grant is sought of any financial obligations which would be placed upon the city by acceptance of any particular grant;
- (4)assist the department in obtaining the approval of the city manager and city council prior to the filing of any grant application;
- (5)keep records of the activities of the division; and,
- (6)perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Grant Funded Activities.* Whenever a grant has been awarded from any source to further the performance of the duties and responsibilities described in section five hereof, the proceeds of all and any such grants shall be deposited in accounts within the office of the city manager which accounts shall, for financial management purposes, be under the control of the director. Whenever a grant provides funds for an activity which would be properly or ordinarily be performed by any other city agency regardless of the source of funding, that city agency shall be responsible for implementing the activities funded by the grant.

**§ 9. Purchasing Division**

(a) *Division Head.* The purchasing agent shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The purchasing agent shall:

- (1)serve as the chief procurement officer of the city on all transactions unless the city manager has designated otherwise with regard to any particular contract or to any category or categories of contracts;
- (2)administer the provisions of the city charter and the public bidding laws in the award of all city contracts for the purchase of supplies or other personal property, the acquisition of services, the construction, reconstruction, alteration, remodeling or repair of any public work or public building, the purchase or sale of real property, the disposal of real, personal or tangible property, and the retention of design or engineering services, unless otherwise directed by the city manager with regard to any particular contract or to any category or categories of contracts;
- (3)initiate the proper contract award procedure upon the request of the head of any city department, including the school department;
- (4)award the contract, in the case of tie low bids, quality and delivery being equal, to a bidder having a place of manufacture or business in the city, or to a bidder who has already established a satisfactory experience with the city;
- (5)administer the execution of contracts by securing the signatures of the vendor or contractor, the head of the department originating the purchase or transaction, the budget officer or city auditor as the case may be, the city solicitor and the city manager in that order except in the case of public works or public buildings construction contracts where all city signatories shall execute the contract in the order described above prior to the contract being presented to the contractor for signature;
- (6)deliver an original of each city contract once fully executed to the city clerk and copies of the same to the city auditor and the department originating the purchase or other transaction;
- (7)review all invoices prior to payment as may be presented concerning the purchase of goods or supplies by any city department to determine whether the invoice accurately reflects the terms of the contract and that the quantity, quality and delivery of the goods or services complies with the contract;
- (8)keep current on market trends and conditions concerning goods and supplies frequently purchased by the city;
- (9)ascertain from any department such information as may be necessary or useful to supply goods and services to that department, including information necessary to schedule periodic deliveries of supplies or the performance of services; and,
- (10) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Emergency Procurement.* In the event of an emergency declared by the city manager, take any action as directed in said declaration or pursuant thereto by the city manager.

(d) *Promulgation of Rules & Allocations of Scarce Commodities.* The purchasing agent may, with the approval of the chief financial officer, promulgate rules of procedure governing the foregoing duties and responsibilities, the purchasing procedures to be followed by city agencies and the allocation of any commodity, including oil, gasoline, paper and road salt, which is in short supply due to extraordinary market conditions and, in such event, any department head aggrieved by any such allocation may appeal to the city manager for a final determination of the allocation of such commodities.

#### **§ 10. Technical Services Division**

(a) *Division Head.* The chief information officer shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The chief information officer shall:

- (1) organize and implement a centralized information systems center as authorized by the city manager;
- (2) direct, organize, and implement the planning, development and production of information systems, including the integrated municipal information system and the geographic information system;
- (3) direct and control the data operations and personnel of the department;
- (4) coordinate through advice and counsel the data requirements of any other city agency;
- (5) advise the city agencies on information systems matters, including the review of proposed applications or equipment acquisitions;
- (6) provide support services to city agencies, in accordance with the priorities of the city manager;
- (7) maintain and safeguard data, city-wide network, information, programs and equipment of the department;
- (8) establish rules and regulations controlling the access and release of data, including, but not limited to, particular personnel information of municipal employees and other persons and arrest records or similar law enforcement data;
- (9) maintain the confidentiality of any information or data collected or processed by the division except as authorized by the user agency, the chief financial officer or the city manager; and,
- (10) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 11. Treasury and Collections Division**

(a) *Division Head.* The city treasurer and collector shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The city treasurer and collector shall:

- (1) perform all duties prescribed by chapter forty-one of the General Laws;
- (2) maintain an account of all receipts and disbursements for and on behalf of the city and to conform the same as nearly as may be possible with accounts kept by the city auditor;
- (3) have custody of, and keep a registry thereof, all official bonds, notes, scrip and other certificates of indebtedness, together with coupons issued by the city after they have been paid, except for the fidelity bonds of the city treasurer and any assistant treasurer, which shall be kept by the city auditor;
- (4) render to the city manager annually on or before September thirtieth a detailed statement of all receipts and disbursements for the previous fiscal year;
- (5) negotiate under the direction of the city manager all loans authorized by the city council;
- (6) collect and receive all money due to the city on all accounts and other demands against persons indebted to the city and disburse all sums owed by the city, except as otherwise provided by law or city ordinance;
- (7) collect and administer the laws regarding the payment of fines for parking violations and for civil and criminal violations of city ordinances enforced through the non-criminal disposition process;
- (8) keep and safeguard all books and records of the division;
- (9) deliver to his successor all books, papers, documents and property of the division;
- (10) act as treasurer and custodian of all trust funds of the city and all funds of the Worcester Retirement System;
- (11) administer the affairs of the trust funds commission established by these ordinances and perform all such duties as may lawfully be required by the commission; and,
- (12) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Receipt of Payments Other Than At The Treasury.* Departments, divisions, boards and commissions, when authorized in writing by the city manager, may process the receipt of payments for services they render and the receipts given by such departments at the time of any such payment shall be sufficient to establish the valid discharge of the debt due the city. Otherwise, only the receipt of the city treasurer shall be sufficient to establish the valid discharge of any debt due the city. Any departments, etc., so authorized, shall make returns of all such collections to the treasurer and render accounts of their collections to the city auditor. The treasurer shall determine the form, manner and time of all such returns and the city auditor shall determine likewise for all such accounting.

(d) *Payments Only Upon Appropriation.* No money shall be paid out of the city treasury by the treasurer except by appropriation order of the city council, or to satisfy final judgments against the city, unless the expenditures or the terms of the contract shall have been approved or certified by the chair of the board or by the officer heading the department or division authorized to incur the expenditure or make the contract or unless the same shall have been approved by and the warrant therefor shall have been drawn by the city manager. No other person shall pay any bill of any department or division.

(e) *Fidelity Bonds.* The treasurer, acting solely in his or her capacity as city treasurer, shall give a bond to the city in accordance with chapter forty-one, section thirty-five of the General Laws. The city treasurer, acting solely as collector of taxes, shall give a separate bond to the city acceptable to the commissioner of revenue.

## **§ 12. Trust Funds Commission**

(a) *Establishment of the Trust Funds Commission.* Under authority of General Laws, chapter forty-one, section forty-five, and Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Trust Funds Commission" ("commission").

(b) *Membership.* The commission shall consist of three commissioners who shall be appointed by the city manager for three year terms. The terms shall be staggered such that one term shall expire on January thirty-first each year.

(c) *Duties and Responsibilities.* The commission shall:

- (1) manage all trust funds given or bequeathed for the benefit of the city inhabitants thereof in accordance with the terms of each trust, unless the gift or bequest shall otherwise provide, including the "William A. Richardson Park Fund", the Jaques Fund and any other fund held by the city for the benefit of the former city hospital; provided, however, that any trust fund given or bequeathed to the city for the benefit of the Free Public Library, whether now existing or given in the future, shall be managed by the board of directors of the Free Public Library unless the trust should provide otherwise;

- (2) adopt regulations governing its affairs, which regulations shall provide that any investment decision made by the commission shall be effective only if approved by at least two of the trustees;
- (3) distribute the income in accordance with the terms of the respective trust;
- (4) have care, custody and control of all the remaining property, real, personal, mixed, which had been received, or shall hereafter be received, directly or indirectly by gift, bequest or otherwise, for the benefit of the former city hospital, except as otherwise provided by such gift, devise, or deed or otherwise;
- (5) have the full power and authority to negotiate and make sale of any real estate now held by the city for the use and benefit of the former city hospital, and all real estate which has been or may be hereafter granted, conveyed or devised to the city for the use benefit of the city hospital, unless conditions are connected with the conveyance, devise or gift inconsistent therewith, and all real estate which may at any time become the property of the city through any investments made by authority of this section, and for the time being not in use for hospital purposes, in such quantities, at such times, and upon such terms as they shall regard the most advantageous to the interest of all parties interested in the funds, provided that, any conveyance of real estate so sold shall be valid only by deed executed by the city manager and assented to by the commission;
- (6) invest from time to time all monies which shall hereafter be derived from the sale of real estate or personal property given, granted or bequeathed for the benefit of the city hospital, in the same securities and in the same manner provided by the statutes of the commonwealth for the management and investment of deposits in savings banks; provided, that no part of the money or property shall be invested in the bonds, scrip or other obligations of the city;
- (7) pay over to the city treasurer when appropriate all monies hereafter received as income from any property heretofore granted, bequeathed or conveyed, for the benefit of the former city hospital, whether as rents, interest, or otherwise, unless conditions connected with the bequest or gift is inconsistent therewith, after deducting such sums as may be expended by them in necessary repairs upon the property and such sums as may be otherwise necessarily expended by them in the performance of their duties, and the city treasurer's receipt therefor shall be a sufficient voucher for such payments;
- (8) seek the advice and representation of the city treasurer and city solicitor whenever it appears reasonable or necessary to obtain judicial approval for the use of any trust funds, including former city hospital funds, for other public purposes;

- (9) perform all duties prescribed by chapter forty-one, section forty-seven of the General Laws;
- (10) keep full records of its doings and of the investments showing in detail the sources of receipts and the items of expenditure;
- (11) make annual reports to the city manager of its doings and stating the condition of each trust fund under its care; and,
- (12) perform such other duties as may be prescribed under law.

(c) *Custodian of the Trust Funds.* The city treasurer shall be the custodian of all funds and securities of such trust funds and shall invest and reinvest them and monies therefrom as directed by the commission. The city treasurer shall collect the income earned by the trust funds and each month shall turn over such income to the city to be spent in the manner provided for by the terms of the gift or bequest upon the draft of the city manager, counter-signed by the city auditor, in the same manner as other monies are disbursed.

**Article 3. Department of Public Works and Facilities**

- § 1. Establishment
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- §14. Hope Cemetery Commission
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- §22. Water Operations Division
- §23. Civic Center Commission
- §24. Lincoln Square Memorial Board
- §25. Memorial Auditorium Board of Trustees

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Public Works and Facilities" ("department").

**§ 2. Function**

It shall be the function of the department to manage and perform capital facility improvement projects and to provide city residents, businesses and visitors with fundamental environmental and transportation services in the form of clean water, the disposal and recycling of household goods and rubbish, effective sanitary and storm sewers and safe bridges, highways, streets and sidewalks.

**3. Head of Department**

(a) *Department Head.* The department shall be headed by the commissioner of public works and facilities ("commissioner") who shall be appointed by, and shall serve at the pleasure of, the city manager.

(b) Duties and Responsibilities. The commissioner shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department and its divisions;
- (2) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;
- (4) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (5) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (6) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (7) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (8) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department, or any of its divisions, by the city manager and the city council;
- (9) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (10) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;
- (11) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager;

- (12) represent the city as a member of the Upper Blackstone Water Pollution Abatement District; and,
- (13) perform all duties prescribed by chapter two hundred ten of the acts of 1939, as amended, except as may be otherwise provided.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the commissioner and include a director of administration, the city architect, a director of central garage, a director of engineering, a director of forestry, a director of hope cemetery, a commissioner of parks and recreation, a director of recycling, a director of sewers, a director of streets, a director of traffic engineering, a director of water operations and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

#### **§ 5. Organization of Department**

(a) *Establishment of Divisions.* The department shall be organized into the following divisions for the following purposes:

*Administration Division* - to operate the customer service center, a central office for the processing of citizen service requests for city services of all types and from all departments, and to assist the commissioner in the performance of duties and responsibilities as the of the head of the department;

*Capital Projects Division* - to plan, design, construct, manage, maintain and repair the capital facilities of the city;

*Central Garage Division* - to maintain and repair city vehicles;

*Engineering Services Division* - to provide engineering services for city capital facility projects as directed;

*Forestry Division* - to manage and maintain the urban forest of the city through tree trimming and planting, the removal of condemned trees and the removal of storm debris;

*Hope Cemetery Division* - to operate and maintain Hope Cemetery as a facility for public and private internments.

*Parks & Recreation Division* - to manage, maintain, develop and improve the parks, recreation and forestry facilities of the city;

*Sewers Division* - to construct, maintain, repair and replace city sanitary and storm sewers;

*Streets & Recycling Division* - to construct, maintain, repair and replace city highways, bridges, streets and sidewalks, including street lighting, snow removal and pavement markings and to administer the collection, recycling and disposal of household waste products programs of the city;

*Traffic Engineering Division* - to construct, maintain, repair and replace traffic and parking control devices and off-street parking facilities, to develop and manage the regulations governing traffic and parking in the city and city-owned parking facilities, to enforce the traffic and parking laws of the city and to provide traffic planning analysis and recommendations; and,

*Water Operations Division* - to construct, maintain, repair and replace the drinking water supply systems of the city, including watershed protection activities.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division shall also have the duty and responsibility to:

- (1)assist the commissioner in the performance of duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the commissioner or otherwise prescribed by law;
- (2)manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the commissioner;
- (3)supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the commissioner up to and including suspensions for no more than five working days;
- (4)administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5)keep the commissioner informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6)recommend to the commissioner implementing the rules, policies and practices governing the operations of the department as are approved by the commissioner; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the commissioner;

- (7)ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the commissioner;
- (8)make recommendations to the commissioner on changing or initiating any policy, operation, program or service to the public;
- (9)prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the commissioner; and,
  
- (10) maintain any property assigned to the division by the commissioner.

(c) *Management of Multiple Divisions.* The commissioner, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the department, said individual may be a division head with responsibility for one or more divisions or an assistant or deputy commissioner with responsibility more than one division head.

#### **§ 6. Administration Division**

(a) *Division Head.* The director of administration of the department of public works & facilities shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of administration of the department shall:

- (1)operate the customer service center, a central office for the processing of citizen service requests for city services of all types and from all departments, including services delivered during emergencies;
- (2)manage the processing of payroll, purchasing, contracts, and personnel documentation for the department;
- (3)assist the commissioner in the performance of his or her duties and responsibilities as the of the head of the department; and,
- (4)perform the duties and responsibilities listed in section 5(b)(1-10) above.

#### **§ 7. Capital Projects Division**

(a) *Definition of Capital Projects.* As used in this section and for all purposes related thereto the term "capital project" shall mean any effort concerning the study, planning, design, construction, construction management, operational management, maintenance, repair, replacement or demolition of any buildings or other structures intended or used in any fashion for human occupancy and which are owned, leased or otherwise under the lawful control by

the city and placed under the care, custody and control of a city officer, department, board or commission, including the Worcester Redevelopment Authority.

(b) *Division Head.* The director of capital projects shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(c) *Duties and Responsibilities of the Director of Capital Projects.* The director of capital projects shall:

- (1) develop, implement, manage and conduct capital projects for any city facility under the care, custody and control of the commissioner and, when requested by the commissioner, for any other city facility, or any group thereof as determined by the city manager, including those now under the care, custody and control of the Worcester Regional Airport Commission, the Civic Center Commission, the Memorial Auditorium Trustees, the Lincoln Square Memorial Trustees; and, the Elder Affairs Commission (senior center);
- (2) administer the award and implementation of contracts concerning any capital project; provided, however, that in the case of any such contract involving property under the care, custody and control of any city officer, agency, board of commission, other than the department of capital facilities and environmental management, no such contract shall be presented for the approval of the commissioner and city manager unless the director of capital projects has received a written authorization from the chief financial officer that sufficient funds have been appropriated either to the department of capital facilities and environmental management or the department, agency, board or commission with care of the facility; and,
- (3) perform the duties and responsibilities listed in section 5(b)(1-10) above.

(d) *Duties and Responsibilities of the City Architect.* The city architect shall:

- (1) when authorized and directed to do so by the director of capital projects, provide architectural design and construction management services on any city capital facility project, such services to include:
  - (A) the preparation of construction plans and specifications in compliance with all applicable building and engineering codes and engineering and architectural standards;
  - (B) the preparation and filing of applications for any and all permits and approvals necessary to implement and complete any capital facility project;
  - (C) the administration of the public bidding laws for the award of capital facility improvement contracts

- (D) the preparation of feasibility studies, master plans, building programs, engineering studies, environmental assessments, cost estimates, conceptual design and design development plans and the like; and,
  - (E) construction management services as defined in chapter one hundred ninety-three of the acts of two thousand and four.
- (2)consult with the city commission on persons with disabilities and other representatives of the disabled community at the earliest practical stage when providing design services on any city capital facility project; and,
  - (3)administer the operations of the designer selection board.

(e) *Consultation with Disabilities Commission.* At the earliest practical stage in any capital project, the director of capital projects shall review the plans for any such project with the commission of disability established by these ordinances to explain the compliance of the plans with architectural access regulations and codes and to ascertain whether any changes in such plans are feasible to improve building and facility access beyond that which said regulations and codes may require.

#### **§ 8. Designer Selection Board**

(a) *Establishment of the Designer Selection Board.* Under authority of Article Six of the Home Rule Charter and in compliance with General Laws chapter seven, section thirty-eight K, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Designer Selection Board" ("board").

(b) *Membership.* The board shall consist of five regular members and three alternate members designated by the city manager from existing regular employees of the city. The city manager shall from time to time select one member to be the chair.

(c) *Duties & Responsibilities.* The board shall have the duty and responsibility to carry-out the selection procedures adopted by executive order of the city manager relative to the award of design services contracts as required by G.L. chapter seven, section thirty-eight A and one-half and to perform such other duties and assignments as the city manager may request.

#### **§ 9. Central Garage Division**

(a) *Division Head.* The director of central garage shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of central garage shall maintain and repair city vehicles and machinery assigned to the department and shall perform the duties and responsibilities listed in section 5(b)(1-10) above.

**§ 10. Engineering Services Division**

(a) *Division Head.* The director of engineering shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of engineering shall:

- (1) provide engineering services and keep all plans for all highways, streets, sidewalks, parks, recreation facilities, bridges, dams, the sewer systems, the watershed and water filtration and distribution systems, recycling and waste disposal facilities, hope cemetery and other engineering structures that may be under the care, custody and control of the department;
- (2) make all surveys, measurements, levels and estimates;
- (3) serve as the clerk and keeper of the records of the conservation commission; and,
- (4) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 11. Conservation Commission**

(a) *Establishment of Conservation Commission.* Under authority of General Laws chapter forty, section eight C, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a regulatory board of the city to be known as the "Conservation Commission".

(b) *Membership.* The conservation commission shall consist of seven members who shall be appointed by the city manager for a term of three years. The terms shall expire on September thirtieth of each year and shall be staggered such that two terms expire each year for two years and three terms shall expire every third year.

(c) *Duties & Responsibilities.* It shall be the duty and responsibility of the conservation commission to perform all duties prescribed by General Laws, chapter forty, section eight C; the city wetlands ordinance, and, all such other duties as may be prescribed by law.

**§ 12. Forestry Division**

(a) *Division Head.* The director of forestry shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of forestry shall maintain and manage the urban forest of the city through tree trimming and planting, the removal of condemned trees and the removal of storm debris and shall perform the duties and responsibilities listed in section 5(b)(1-10) above.

**§ 13. Hope Cemetery Division**

(a) *Division Head.* The director of hope cemetery shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of hope cemetery shall:

- (1) maintain and manage Hope Cemetery;
- (2) supervise the conduct of internments;
- (3) apply funds deposited with the city treasurer for the preservation, care, improvement or embellishment of any public burial place in accordance with law; and,
- (4) perform the duties and responsibilities listed in section 5(b)(1-10) above.

**§ 14. Hope Cemetery Commission**

(a) *Establishment of Hope Cemetery Board.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Hope Cemetery Board" ("board").

(b) *Membership.* The Hope Cemetery Board shall consist of five members appointed by the city manager for three year terms. The terms shall be staggered such that two terms shall expire on December thirty-first for two successive years and one term shall expire on December thirty-first every third year.

(c) *Duties & Responsibilities.* It shall be the duty and responsibility of the board to advise and make recommendations to the city manager and the Commissioner of Parks on matters affecting Hope Cemetery, including the use of Cemetery land and the conduct of internments.

**§ 15. Parks And Recreation Division**

(a) *Division Head.* The director of parks and recreation shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of parks and recreation shall:

- (1) maintain and manage all of the city parks and playgrounds, including city hall and the common, together with such other properties and facilities as may be placed under the responsibility of the division;
- (2) issue, under general regulations adopted by the parks and recreation commission, permits and licenses for the use of the parks, recreation and other facilities under the care of the division;

- (3) inform the public about the parks and recreation programs and systems; and,
- (4) perform the duties and responsibilities listed in section 5(b)(1-10) above.

#### **§ 16. Parks And Recreation Commission**

(a) *Establishment of the Parks & Recreation Commission.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Parks & Recreation Commission" ("commission").

(b) *Membership.* The commission shall consist of seven members appointed by the city manager for three year terms. The terms shall be staggered such that two terms shall expire on April thirtieth for two successive years and three terms shall expire on April thirtieth every third year. The commission shall perform the duties and exercise the authority prescribed by law; provided that the commission shall have no authority over matters involving Hope Cemetery.

(c) *Duties & Responsibilities.* The commission shall:

- (1) have general superintendence over the public parks and playgrounds of the city, including the golf course at Green Hill;
- (2) promulgate rules and regulations governing the use of the parks, playgrounds and facilities under its general superintendence as such authority is granted by the General Laws chapter forty-five, section five;
- (3) make reports and recommendations to the commissioner concerning the acquisition of new parks and playgrounds; and,
- (4) perform such other duties as may be prescribed by law.

#### **§ 17. Golf Course Division**

(a) *Division Head.* The golf course manager shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The golf course manager shall:

- (1) have charge of Green Hill Golf Course facility and its operations and programs;
- (2) operate the facility as an enterprise on behalf of the city; and,
- (3) perform the duties and responsibilities listed in section 5(b)(1-10) above.

**§ 18. Sewer Division**

(a) *Division Head.* The director of sewers shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of sewers shall:

- (1) have charge of all sewers, drains, pump stations and sewage treatment facilities of the city;
- (2) perform catch-basin cleaning, pumping station maintenance, inspection and diagnosis of the sewer systems, general infrastructure maintenance, easement maintenance and clearing and flood control, including street drainage;
- (3) ensure that the discharges from the sewer and storm drains of the city comply with all state and federal water quality standards;
- (4) represent the city as a member of the Upper Blackstone Water Pollution Abatement District; and,
- (5) perform the duties and responsibilities listed in section 5(b)(1-10) above.

**§ 19. Streets & Recycling Division**

(a) *Division Head.* The director of streets and recycling shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of streets shall:

- (1) manage and maintain all highways, streets, sidewalks and bridges belonging to the city;
- (2) keep a separate record of the names of all streets which shall be accepted, laid out and established;
- (3) keep a record of all sidewalks that now are or hereafter may be laid out and established by the city council, including the width, height and grade of the same and setting boundaries and measurements thereof, with the date of such laying out;
- (4) administer the collection, recycling and disposal of household solid waste programs of the city, including the distribution and sale of approved trash disposal bags, recycling bins and the like;
- (5) implement, enforce and propose changes to the policies, practices, ordinances and laws governing the collection, recycling and disposal of household solid waste;
- (6) organize and operate bulk collection, household hazardous waste collection and educational programs; and,
- (7) perform the duties and responsibilities listed in section 5(b)(1-10) above.

**§ 20. Traffic Engineering Division**

(a) *Division Head.* The director of traffic engineering shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of traffic engineering shall:

- (1) have charge of all traffic control devices, signage and on-street parking control facilities and equipment;
- (2) maintain the parking ordinance schedules of the city;
- (3) enforce the parking ordinances of the city with the issuance of parking violation notices by civilian personnel;
- (4) maintain a traffic control plan for the city and make recommendations on any proposal which may affect such a plan;
- (5) serve as the clerk and otherwise administer the operations of the off-street parking board; and,
- (6) perform the duties and responsibilities listed in section 5(b)(1-10) above.

(c) *Pavement Markings.* The director of traffic engineering, with the approval of the commissioner, shall have authority to locate, place and designate on public highways, within the city, such pavement markings on highways as he or she shall deem necessary, proper and expedient, but in accordance with section two of chapter eighty-five of the General Laws, in addition to those markings that the city council shall from time to time ordain.

**§ 21. Off-Street Parking Board**

(a) *Establishment of the Off-Street Parking Board.* Under authority of chapter 365 of the Acts of 1955 and Article Ten, § 10-6(a)(3), of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Off-Street Parking Board" ("board").

(b) *Membership.* The board shall consist of five members appointed by the city manager for staggered terms of four years each. The terms shall be staggered such that one term shall expire every June thirtieth for four successive years and no term shall expire every fifth year. The city manager shall designate the chair of the board.

(c) *Duties & Responsibilities.* The board shall:

- (1) have care, custody and control of the off-street parking facilities of the city, which shall include surface parking lots (including meters), parking structures and parking garages;

- (2) set the fees for the use of off-street parking facilities at such rates that the revenue therefrom shall be adequate to cover the expenses of the city for off-street parking, as defined in chapter 365, Acts of 1955, as amended;
- (3) promulgate rules and regulations regarding the use and operation of the off-street parking facilities under its care, custody and control; and,
- (4) perform such other duties as may be prescribed by law.

(d) *Deposit of Receipts.* Unless otherwise provided by law, receipts from the use of off-street parking facility shall be collected and deposited with the city treasurer, who shall keep the same in a separate account known as the off-street parking fund to be expended in accordance with law.

## **§ 22. Water Operations Division**

(a) *Division Head.* The director of water operations shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of water operations shall:

- (1) manage and maintain all reservoirs, dams, watershed interests, and filtration facilities of the city;
- (2) cause to be visited all dams and reservoirs belonging to the city at least once in every three months;
- (3) ensure that the water supplied by the city complies with all state and federal water quality standards; and,
- (4) perform the duties and responsibilities listed in section 5(b)(1-10) above.

## **§ 23. Civic Center Commission**

(a) *Establishment.* Under authority of chapter 216 of the Acts of 1976, as amended, and Article X, § 10-6(a)(2), of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Civic Center Commission" ("commission").

(b) *Membership.* The commission shall consist of five persons, residents of the city, who shall be appointed by the city manager with the approval of the city council. The members of the commission shall serve for terms of five years. The terms shall be staggered such that one term expires on October fourth of every year. The chair of the commission shall be designated by the city manager.

(c) *Duties & Responsibilities.* The board shall:

- (1) have care, custody and control of the arena facility known as "The Centrum In Worcester," the convention center facility adjacent thereto and such other facilities as the city council may from time to time place under the care, custody and control of the commission;
- (2) perform and exercise the authority granted by the duties prescribed in chapter 216 of the Acts of 1976; and,
- (3) adopt rules and regulations in accordance with law for the conduct of its affairs and the operation of any facility under its care, custody and control; and,
- (4) perform such other duties as may be prescribed by law.

#### **§ 24. Lincoln Square Memorial Board**

(a) *Establishment.* Under authority of General Laws chapter forty-one, section one hundred five, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Board of Trustees for the Lincoln Square Memorial" ("board").

(b) *Membership.* The board shall consist of five members appointed for three year terms by the city manager. The terms shall be staggered such that two terms shall expire on August thirty-first of two consecutive years and one term shall expire on August thirty-first of the following year.

(c) *Duties & Responsibilities.* The board shall have care, custody and control of the Lincoln Square Memorial for the men and women who served in the First World War for the United States of America and perform such other duties as may be prescribed by law.

#### **§ 25. Memorial Auditorium Board of Trustees**

(a) *Establishment.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Memorial Auditorium Board of Trustees" ("board").

(b) *Membership.* The board shall consist of five persons, residents of the city, who shall be appointed by the city manager for terms of five years staggered such that one term expires on November eleventh of every year. No more than three members of the board shall be veterans. The chair of the commission shall be designated by the city manager.

(c) *Duties & Responsibilities.* The board shall:

- (1) have care, custody and control of the Memorial Auditorium as a memorial to the inhabitants of the city who served in the armed forces during times of war;
- (2) perform and exercise the authority granted by chapter forty-one, section one-hundred and five, of the General Laws, or any such other duties as may be prescribed by law; and,

(3)adopt rules and regulations in accordance with law for the conduct of its affairs and the operation of the Memorial Auditorium.

**Article 4. Public Safety Group**

- § 1. Police Department
  - § 2. Fire Department
  - § 3. Communications Department
  - § 4. License Commission
- 

**§ 1. Police Department**

(a) *Establishment.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Police Department" ("department").

(b) *Function.* It shall be the function of the department to provide law enforcement and police services for the city except as otherwise provided for in the Civil Defense Act, chapter 639, Acts of 1950.

(c) *Department Head.* The department shall be headed by the chief of police ("chief") who shall be appointed by, and shall serve at the pleasure of, the city manager, unless otherwise provided by law.

d) *Duties and Responsibilities.* The chief shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) enforce all laws, ordinances, rules and regulations affecting the public;
- (5) receive and answer complaints of violations of law, ordinances, and rules and regulations affecting the public;
- (6) supervise and direct the officers and civilians in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;

- (7) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the peace, security and good order of the city;
- (8) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (10) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (11) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (12) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (13) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council;
- (14) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (15) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;
- (16) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager; and,
- (17) perform all duties prescribed by chapter forty-one, section ninety-eight of the General Laws and the rules and regulations of the department.

(e) *Conflict with State Law.* Nothing in this section shall be deemed to conflict with the General Laws or abridge the powers and authority vested by the city charter in the city manager as the chief conservator of the peace of the city.

(f) *Table of Authorized Positions.* The department shall consist of the chief and such deputy chiefs, captains, lieutenants, sergeants and other officers and civilian employees as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(g) *Duties and Responsibilities of Deputy Chiefs and Subordinate Officers.* The deputy chiefs of police shall aid the chief in the performance of the duties and responsibilities prescribed by this section and shall perform any lawful act directed or commanded by the chief. All other officers of the department shall perform any lawful act directed or commanded by their superiors, in accordance with the rules and regulations of the department.

(h) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

(i) *Records of Persons Arrested.* The chief shall cause to be kept at police headquarters a complete descriptive list of each and every person arrested. Such list shall contain the arrested person's name, address, nativity, age, height, complexion, weight, color of hair and eyes, the amount of money and a list of other valuables found on such person, all offenses for which he or she has been arrested and any other information that the chief may deem appropriate. All of the above shall be entered and indexed in a book to be furnished by the city. Said book shall be delivered by each chief to his or her successor in office.

(j) *Duties at Fires.* It shall be the duty of the department to aid the fire department by giving alarms in case of fire and clearing the streets and grounds in the immediate vicinity of the fire, so that the members of the fire department shall not be hindered in the performance of their duties.

(k) *Emergency Lines.* The officers of the department shall have the authority to rope off the streets and grounds in the vicinity of a fire or any other catastrophe or emergency and to prevent all persons, except members of the fire department and other emergency personnel, from passing inside the lines.

(l) *Assistance to Other Cities and Towns.* The chief is authorized to extend such aid as he may deem necessary to another city or town at the request of the city or town in suppression of riots and other forms of violence therein, provided, however, the chief shall receive prior approval of the city manager before extending assistance outside the greater Worcester area.

(m) *Auxiliary Police.* The city manager may appoint members of the auxiliary police as "special police officers," and the department may contract, subject to appropriation by the city council and upon approval of the city manager, for the voluntary service of said members of the auxiliary police and for the purchase of appropriate insurance coverage for such members while on duty and under the direction of the chief.

(n) *Special Police Officers.* The city manager may appoint special police officers for a term of a calendar year, and he may remove the same at any time. Special police officers shall have and exercise police powers only for the area designated by the city manager and shall be subject to such conditions as the city manager shall establish. No special police officer shall carry a weapon while on duty unless he has received special permission to do so by the chief. An application fee of fifteen dollars shall be paid by any person who applies for appointment as a special police officer.

(o) *Constables.* The city manager may appoint constables pursuant to the requirements of G.L. chapter forty-one, sections ninety-one and ninety-one B for a term of one year commencing on January first and ending at 11:59 p.m. on December thirty-first of each calendar year. No person who is not a resident of the city shall be eligible for appointment as a constable; provided, however, that the foregoing provision shall not apply to regular full-time employees of the city who are required by the terms of their employment with the city to become constables. The city manager shall, from time to time, as public good may require, establish the number of constables to be appointed in the city. The chief shall investigate each applicant's fitness and qualifications under law for appointment as a constable. Any applicant seeking appointment or reappointment shall pay an application fee of one hundred dollars. Each constable shall give the bond to the city in the amount required by the city, with sureties approved by the city, and shall file the bond, with the approval of the city manager endorsed thereon, with the city clerk.

(p) *Excusing Members from Duty.* The time and manner of excusing members of the department from duty shall be determined by the chief. A member so excused shall be exempt from duty and from attendance at a police station or other place, but otherwise shall be subject to all laws and rules and regulations relating to the members of the department. The chief shall have authority, whenever, in his or her judgment, any public emergency or any unusual demand for the services of the police requires, to prevent any members of the department from taking time off when the member is entitled thereto at the time assigned therefor, or to recall such uniform members back to duty for such duration and to such extent as the chief deems necessary.

(q) *Holiday and Overtime Pay.* For the purpose of computing holiday pay and overtime pay due police officers in accordance with the provisions of General Laws, chapter one hundred forty-seven, sections seventeen A and seventeen C, the words "police officer" shall be construed to include police chief, deputy chiefs, captains, lieutenants, sergeants and patrol officers.

(r) *Off-Duty Employment of Police Officers.* No police officer shall, during his or her off-duty hours, enter the employ of any person, firm, corporation, or engage in any gainful occupation without the express written permission of the chief. In granting of any such permission, the chief shall first determine that:

- (1) such employment or occupation will not impair the police officer's efficiency as a police officer;
- (2) such employment or occupation is not incompatible with his employment as a police officer nor tend to bring into disrepute the department; and,
- (3) such employment or occupation will not seriously impair or affect the employment of others engaged in like employment or occupation.

(s) *Uniforms and Vehicles.* The chief shall determine and authorize the type, style and color of uniforms of members of the police department and the color schemes, insignia, lighting attachments and identification of all motor vehicles of the police department; and, except as otherwise provided by law, no person shall wear a similar uniform or drive a similar motor vehicle that gives the impression of an official Worcester police uniform or motor vehicle. Uniforms and motor vehicles of any private police, security police, special police, civilian watchman, private guards, animal guards or other private persons, with or without police powers, including charitable or business corporations, that come within the above prohibition may be worn or driven if the use of such uniform or motor vehicle is approved in writing by the chief.

(t) *Rules and Regulations.* The city manager shall promulgate rules and regulations as may be deemed necessary for the department and its personnel.

## **§ 2. Fire Department**

(a) *Establishment.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department to be known as the "Fire Department" ("department").

(b) *Function.* It shall be the function of the department to provide fire suppression and protection services, first responder and emergency response management services for the city.

(c) *Department Head.* The department shall be headed by the chief engineer who shall be known as the "fire chief" ("chief") who shall be appointed by, and shall serve at the pleasure of, the city manager, unless otherwise provided by law.

(d) *Duties and Responsibilities.* The chief shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) perform all duties prescribed by chapters forty-eight and one hundred and forty-eight of the General Laws and by rules and regulations of the department;
- (5) provide fire protection, firefighting and other emergency service for the city, including, but not limited to, salvage and overhauling operations;

- (6) act as the agent of the city manager in the preparation, planning, organization, maintenance, administration and operation the emergency response management and civil defense duties and activities of the city as the same may be authorized or required by law, including chapter 639 of the Acts of 1950 and any regulations promulgated thereunder, or any declaration of emergency issued by the city manager, the governor or the president of the United States;
- (7) supervise and direct the officers and civilians in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department and providing each firefighter with a manual containing the rules and regulations of the department and pertinent ordinances and to enforce the same; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (8) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the safety, security and good order of the city;
- (9) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (10) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (11) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (12) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (13) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (14) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;

- (15) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (16) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;
- (17) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager;
- (18) conduct the inspections prescribed in the General Laws and the fire prevention code; and
- (19) possess the duties and authorities of a forest warden as contained in the General Laws, chapter 48, section eight through twenty-eight C.

(e) *Table of Authorized Positions.* The department shall consist of the chief and such deputy chiefs, district chiefs, captains, lieutenants, firefighters and civilian employees as the city council, with the advice of the city manager, shall from time to time authorize.

(f) *Duties and Responsibilities of Deputy Chiefs and Subordinate Officers.* The deputy chiefs shall aid the chief in the performance of the duties and responsibilities prescribed by this section and shall perform any lawful act directed or commanded by the chief. All other officers of the department shall perform any lawful act directed or commanded by their superiors, in accordance with the rules and regulations of the department.

(g) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

(h) *Authority of Chief at Fires & Emergencies.* The chief, or, in his absence, the officer in charge, shall have sole command at the location of any fire or during the emergency response as described in this section over all members of the department and all other persons who may be present and shall have authority to direct all measures for the extinguishment of fires, protection and preservation of property, preservation of order and the observance of laws, ordinances and rules and regulations respecting fires.

(i) *Disability of Chief.* The city manager shall determine what officer shall act, with full duties and authority, in the place of the chief or other officer during the absence or disability of such chief or other officer.

(j) *Advisory Board.* There shall be within the department an advisory board of chiefs, which shall act as an advisory board to the chief. The board shall consist of the deputy and district chiefs of the department, and the chief, who shall be its chair. The advisory board of chiefs shall meet only on the call of the chief and shall render such assistance or advice as the chief may request.

(k) *Aid to Other Cities and Towns.* The chief is authorized to extend such aid as he may deem necessary to another city, town, fire district or area under federal jurisdiction in the Central Massachusetts Regional Planning District or outside the district, with the approval of the city manager, but within the commonwealth for extinguishing fires therein.

(l) *Fire Inspection Companies.* It shall be the duty of the chief to divide the city into as many fire inspection areas as there are companies, and to assign an area to each company for inspection, according to the rules and regulations of the department. Any firefighter, while making such inspection, shall be in uniform and wear the badge of the department. Records of these inspections shall be kept at the office of the chief and shall be available for inspection by the city manager or the city council. The chief, in his annual report, shall give the results of these inspections by area, stating the number of inspections made and a list of cases requiring the enforcement of the provisions of the fire prevention code.

(m) *Excusing Uniform Members from Duty.* The time and manner of excusing uniform members of the department from duty shall be determined by the chief. A member so excused shall be exempt from duty and from attendance at a fire station or other place, but otherwise shall be subject to all laws and rules and regulations relating to a uniform member of the department. The chief shall have the authority, whenever in his judgment, any public emergency or any unusual demand for the services of the department requires, to prevent any uniform members of the department taking time off when the member is entitled thereto at the time assigned therefor or to recall such uniform member back to duty for such duration and to such extent as the chief deems necessary.

(n) *Off-Duty Employment of Firefighters.* No uniformed member of the department shall, during his or her off-duty hours, enter the employ of any person, firm, corporation, or engage in any gainful occupation without the express written permission of the chief. In granting of any such permission, the chief shall first determine that:

- (1) such employment or occupation will not impair the uniformed member's efficiency;
- (2) such employment or occupation is not incompatible with the uniformed member's employment as a firefighter nor tend to bring into disrepute the department; and,
- (3) such employment or occupation will not seriously impair or affect the employment of others engaged in like employment or occupation.

(o) *Traffic Control by Uniform Members.* Notwithstanding any contrary provisions of the Revised Ordinances, uniformed members of the department, if so authorized by the officer in charge, may direct traffic as may be required to permit fire vehicles to leave or enter a firehouse or to park at the scene of an emergency.

(p) *Drawing Water from Hydrants or Reservoirs.* No firefighter or any employee of the department shall draw water from the reservoirs or hydrants except in case of fire or other emergencies unless specifically authorized by the chief to do so.

(q) *Taking Department Property Out of the City.* No property belonging to the department shall be taken out of city limits unless by order of the chief or the city manager.

(r) *Rules and Regulations.* The city manager shall promulgate, with the approval of the city council, rules and regulations for the government of the department and its members.

(s) *Fire Prevention Bureau.* There is hereby established a fire prevention bureau within the department under the jurisdiction of the chief. The fire prevention bureau shall be in the charge of the chief inspector who shall be designated by the chief and shall:

- (1)administer the fire prevention bureau;
- (2)perform the inspection duties prescribed by the General Laws and the fire prevention code; and,
- (3)perform such other duties as may be prescribed by the chief.

(t) *Training Bureau.* There is hereby established within the department a training bureau under the jurisdiction of the chief. The bureau shall be in the charge of a chief of training who shall be designated by the chief and shall:

- (1)administer the training bureau;
- (2)develop, deliver, test and document mandatory and non-mandatory firefighter development training programs to the members;
- (3)develop, test and document in-service training programs; and,
- (4)perform such other duties as may be prescribed by the chief.

(u) *Maintenance Bureau* There is hereby established a maintenance bureau within the department, under the jurisdiction of the chief. The maintenance bureau shall be in the charge of the director of fire apparatus repair and maintenance who shall be designated by the chief and shall:

- (1)administer the maintenance bureau;
- (2)develop, test, repair, maintain, and document procedures that assure that apparatus and firefighting equipment belonging to the department are in proper working order;
- (3)maintain an inventory, including fire station supplies that will allow the department to function on a daily basis;
- (4)perform such other duties as may be prescribed by the chief.

(v) *Emergency Response Management Bureau.* There is hereby established an emergency response management bureau within the department, under the jurisdiction of the chief. The bureau shall be responsible for the operation and coordination of the emergency response management functions of the department and shall:

- (1)administer the emergency response management bureau;
- (2)develop, test, maintain, and document procedures and protocols for the coordination of state, local and federal agencies responding to any emergency as described herein;
- (3)develop, test, maintain, and document interoperability communications protocols for the coordination of state, local and federal agencies responding to any emergency;

- (4) provide training in emergency response matters for members of the department, members of other city departments, employees of any other city or town in Worcester County, volunteers and the public in general;
- (5) maintain an inventory of equipment and supplies which would be required during any emergency response;
- (6) maintain liaison with the state and federal civil defense and emergency management agencies and cooperate with such agencies in carrying out the national program for civil defense and the state program for emergency management;
- (7) maintain complete records of all matters relating to any response to any such emergency, including records of all expenditures for salaries, overtime, supplies, services and equipment made or incurred as part of any such response;
- (8) perform such other duties as may be prescribed by the chief.

(w) *Declarations of Emergencies.* Whenever any natural disaster, heavy snow or ice storm, drought, or fire, or chemical, biological and nuclear accident or attack, or riot, mob or other act of lawlessness or civil disorder, endangers the health, safety and good order of persons or property within the city, the city manager may declare a state of emergency. Any such declaration shall state the reasons for its issuance, the geographic area governed, what property or types of property may be appropriated to respond to the specified emergency and the extent to which ordinarily lawful activity shall be prohibited or impaired. The city manager shall, as soon as practicable, transmit any such declaration to the city clerk. The city council may, by two-thirds vote, repeal, rescind or modify any such declaration.

(x) *Emergency Appointments and Expenditures.* During any state of emergency as described herein, the city manager may, within the limits of the amount appropriated therefore, appoint such experts, clerks, assistants, and such personnel as the work of the department may require, and he may remove them. The city manager shall have the authority to appoint district coordinators as may be required. The city manager may make such expenditures within the appropriation therefore, or from other funds available to him, as may be necessary to execute effectively the purpose of chapter 639, Acts of 1950, or any other applicable law. The city manager may take command of any or all motor vehicles and other mechanical means of transportation, and all equipment related thereto, owned or controlled by the city or any of its departments, boards, commissions and agencies, for the duration of the state of emergency and deem such vehicles emergency vehicles. All city employees in possession of such vehicles and equipment shall comply with the directives of the city manager regarding the use of any such vehicle.

(y) *Acceptance of Gifts and Grants During Emergencies.* The city manager on behalf of the city shall have the authority to receive on behalf of the city, services, equipment, supplies, material or funds by way of gift, grant or loan, for purposes of civil defense, ordered by the federal or state government, or any agency or office thereof, or any person, firm or corporation, subject to the terms of the offer and the rules and regulations, if any, of the agency or entity making the offer.

(z) *Application to State Law.* All references to chapter 639, Acts of 1950, shall be applicable to act or acts in amendment or continuation of or substitution for chapter 639. Nothing in this chapter shall be deemed to limit or otherwise abridge the emergency powers or direction and control over emergency management or civil defense vested in the city manager by virtue of the Home Rule Charter, any statute or the common law.

### **§ 3. Communications Department**

(a) *Establishment.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Communications Department" ("department").

(b) *Function.* It shall be the function of the department to provide and maintain public safety communications services for the city.

(c) *Head of Department.* The department shall be headed by the director, who shall be appointed by and shall serve at the pleasure of the city manager.

(d) *Duties & Responsibilities.* The director shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) provide and maintain radio and telecommunications and services and facilities for all city departments and agencies including the school department;
- (5) operate and maintain a central communications center for all public safety communications;
- (6) supervise and direct the employees in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;

- (7) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the peace, security and good order of the city;
- (8) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (10) identify, acquire, maintain and renew any license necessary or useful in carrying out the duties and responsibilities of this section;
- (11) allocate and assign various portions of the radio and telecommunications facilities of the city to the various city departments and agencies;
- (12) ensure compliance with all state or federal laws and regulations concerning the radio and telecommunications facilities and services provided by the department;
- (13) administer the department and its employees and, to inform the heads of city departments or divisions whenever employees of such departments or divisions fail to comply with applicable laws, regulations, training or practices required or recommended by the department;
- (14) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (15) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (16) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council;
- (17) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (18) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (19) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

(e) *Table of Authorized Positions.* The department shall consist of a communications director ("director") and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

(f) *Licenses.* The director with the approval of the city manager, may issue licenses to any public or private entity interested in utilizing any radio or telecommunication service or facility under the care, custody and control of the department. No such license shall be issued unless 1) the director determines in writing that the service or facility usage permitted by the license shall not materially diminish the radio or telecommunications services or facilities required by city departments and agencies; and 2) the licensee pays a license fee to the city. The director shall, with the approval of the city manager, establish appropriate fees for such licenses. Any license issue under this section shall not exceed a term of twelve months, but may be renewable or self-renewable for additional one year periods, and shall be revocable at the will of the director.

(g) *Records.* The division shall keep audio recordings of emergency telephone activity and public safety radio transmissions, and shall make same available to public safety agencies as their needs might require.

(h) *Conflict with State Law.* Nothing in this section shall be deemed to conflict with the General Laws or abridge the authority vested in the city manager, the chief of police, or the chief of the fire department.

(i) *Regulations.* The director may promulgate such rules and regulations as may be deemed necessary or proper to the purposes of this section.

#### **§ 4. License Commission**

(a) *Establishment of the License Commission.* Under authority of chapter 461 of the Acts of 1914 and section fifty-four of chapter 444 of the Acts of 1893, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a regulatory commission of the city to be known as the "License Commission" ("commission").

(b) *Membership.* The commission shall consist of three persons, residents of the city, who shall be appointed by the city manager. The members of the commission shall serve terms of four years, which shall begin on January first and end on December thirty-first four years hence, and shall be staggered as such that no two terms shall expire at the same time. Vacancies shall be filled for the unexpired portion of the term vacated. The city manager shall annually designate one member of the commission as its chair.

(c) *Duties & Responsibilities.* The commission shall have the duty and responsibility to:

- (1) perform all actions and issue licenses authorized by chapter one hundred thirty eight of the General Laws relative to the sale of alcoholic beverages, wines or malt beverages;
- (2) establish reasonable fares for the conveyance of passengers in taxicabs, liveries, or any other truck, wagon or vehicle licensed under these Revised Ordinances;

- (3) conduct hearings and decide questions of the revocation of any taxicab, livery or other vehicle license issued under these Revised Ordinances;
- (4) perform all actions and issue any other license required by the General Laws to be issued by a local license commission;
- (5) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (6) hear all appeals on decisions made by any licensing authority concerning any license issued under chapter eleven of these Revised Ordinances;
- (7) perform all duties required of it by any other provision of these Revised Ordinances;
- (8) perform any function or take any other action prescribed or authorized by law concerning the issuance of licenses by local licensing authorities; and,
- (9) make and issue rules and regulations in accordance with law for the conduct of its affairs.

**Article 5. Department of Health & Human Services**

- § 1. Establishment
- § 2. Function
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- § 8. Commission on Disability
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- §12. Human Rights Commission
- §13. Public Health Division
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- §15. Code Enforcement Division
- §16. Public Library Directors
- §17. Early Scholarship Committee
- §18. Status of Women Committee
- §19. Veterans' Services Division

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Health & Human Services" ("department").

**§ 2. Function**

It shall be the function of the department to improve the human spirit and condition of all residents of the city by promoting the public health, providing for the elderly and veterans, advancing human rights and the equality of women and the disabled, supporting the operation of the public library, encouraging cultural activities, providing workplace skills training programs, enforcing laws relating to health and human safety and administering the community development block grant program.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the commissioner of health and human services ("commissioner") who shall be appointed by, and shall serve at the pleasure of, the city manager.

(b) *Duties and Responsibilities.* The commissioner shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department and its divisions;

- (2)supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3)perform planning, urban environmental design and policy-planning-management-capacity building activities under the community development block grant program (see, 24 C.F.R. 507.205) to the extent those activities are consistent with the human and public service functions of the department;
- (4)keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;
- (5)attend various neighborhood and community group meetings as directed by the city manager;
- (6)seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (7)prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (8)perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (9)ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (10) except in the case of property placed under the care, custody and control of the board of library trustees, have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department, or any of its divisions, by the city manager or the city council;
- (11) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and,
- (12) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;

- (13) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (14) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

**§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the commissioner and include a director of administration, a director of public health, a director of elder affairs, a human rights director, a head librarian, a director of veterans affairs and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time..

(b) *Manner of Appointment.* Each position in the department, except that of the head librarian, shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

**§ 5. Organization of Department**

(a) *Establishment of Divisions.* The department shall be organized into the following divisions for the following purposes:

*Administration Division* - to assist the commissioner in the performance of the duties and responsibilities as the of the head of the department;

*Disability Commission Division* - to bring about full and equal participation in all aspects of life in the city for all people with disabilities;

*Elder Affairs Commission Division* - to enhance the quality of life for elders in Worcester by identifying needs, developing and implementing programs and services to meet those needs, advocating on behalf of elders and operating a focal point senior center within the city;

*Human Rights Commission Division* - to assure that every individual shall have equal access to and benefit from all public services, to protect every individual in the enjoyment and exercise of civil rights and to encourage and bring about mutual understanding and respect among all individuals of the city;

*Public Health Division* - to preserve, promote and protect the physical and mental health of the inhabitants of the city; to preserve, promote and protect the physical and mental health of the inhabitants of the city; to prevent and abate the spread of communicable diseases, rodents and illnesses borne by food, animals or insects; to develop and conduct tobacco control and alcohol and substance abuse programs; to collect and distribute statistics and reports on public health occurrences and issues within the city; to adopt regulations under authority provided by the General Laws; to enforce all relevant laws, ordinances and regulations; to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and, to provide public health services for the city of Worcester.

*Code Enforcement Division* - possess and exercise all of the powers, duties and responsibilities vested by section one of chapter one hundred forty three of the General Laws in a building inspector, including the authority to; exercise every authority provided by law to enforce building, housing and architectural access codes, laws, ordinances and regulations; organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and, perform the duties and responsibilities described in section 5(b)(1-10) above.

*Public Library Division* - to provide library services to the residents of Worcester;

*Scholarships Division* - to select the recipients of various scholarship funds and trusts held by the city, including the Thomas J. Early Scholarship Fund;

*Status of Women Committee Division* - to formulate, encourage, promote and monitor programs and policies relating to the status of women in the city;

*Veterans' Affairs Division* - to provide services to veterans.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division shall also have the duty and responsibility to:

- (1) assist the commissioner in the performance of duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the commissioner or otherwise prescribed by law;
- (2) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the commissioner;

- (3)supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the commissioner up to and including suspensions for no more than five working days;
- (4)administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5)keep the commissioner informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6)recommend to the commissioner implementing the rules, policies and practices governing the operations of the department as are approved by the commissioner; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the commissioner;
- (7)ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the commissioner;
- (8)make recommendations to the commissioner on changing or initiating any policy, operation, program or service to the public;
- (9)prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the commissioner; and,
- (10) maintain any property assigned to the division by the commissioner.

(c) *Management of Multiple Divisions.* The commissioner, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the department.

## **§ 6. Administration Division**

(a) *Division Head.* The director of administration shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of administration of the department shall:

- (1)manage the processing of payroll, purchasing, contracts, and personnel documentation for the department; and,

- (2)assist the commissioner in the performance of his or her duties and responsibilities as the head of the department; and,
- (3)perform the duties and responsibilities described in section 5(b)(1-10) above.

#### **§ 7. Disability Commission Division**

(a) *Division Head.* The commission on disability director shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The commission on disability director shall:

- (1)assist the commission on disability in the performance of its legal duties and responsibilities;
- (2)administer the affairs of the commission on disability and serve as its keeper of the records; and,
- (3)perform the duties and responsibilities described in section 5(b)(1-10) above.

#### **§ 8. Disability Commission**

(a) *Establishment of Commission on Disability.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Worcester Commission on Disability" ("commission").

(b) *Membership.* The commission shall consist of seven members appointed by the city manager for three-year terms. The terms shall be staggered such that no fewer than two terms shall expire on May thirty-first of each year. A majority of said commission members shall consist of people with disabilities, one member may be a member of the immediate family of a person with a disability. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term.

(c) *Associate Members.* The city manager may appoint up to five associates of the commission, a majority of whom shall be persons with disabilities. The terms of associates shall expire on May thirty-first of each year and shall be staggered such that no more than two terms shall expire in any given year. Associates shall not be deemed members of the commission; however, whenever any member of the commission is absent from any meeting of the commission, associates shall, upon designation by the chairperson and by order of their appointment, fill such vacancies and shall have authority to participate and vote during such meeting. In making any such designation, the chairperson shall identify the member of the commission in whose stead the associate shall act. Should any absent member arrive at a meeting after an associate has been designated to act in his or her stead, the authority of the associate to act shall cease and the member shall take his or her place with the commission.

(d) *Duties & Responsibilities of the Commission.* The commission shall:

- (1) choose annually from among its regular members a chairperson, vice-chairperson and secretary, provided that it may designate the director of the commission on disability as its secretary;
- (2) research local problems of people with disabilities;
- (3) coordinate the activities of other local groups or individuals organized or committed to meet the needs of people with disabilities;
- (4) carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts Office on Disability;
- (5) review and make recommendations about policies, procedures, services and activities of city departments and agencies as they affect people with disabilities;
- (6) work in cooperation with city departments and agencies to bring about full and equal participation by people with disabilities;
- (7) advise and assist city officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities;
- (8) influence city policies and coordinate with programs of the Massachusetts Office on Disability;
- (9) encourage public awareness of disability issues;
- (10) provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses and organizations in all matters pertaining to disability;
- (11) recruit and recommend prospective commission members to the city manager; and,
- (12) submit an annual report to the city manager stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the status of persons with disabilities in Worcester.

(e) *Commission to Act Only By Majority Vote.* All actions of the commission shall be taken by majority vote of the commission members present and shall be recorded in the minutes of its meetings. No member of the commission shall claim or assert any regulatory or enforcement authority by virtue of membership on the commission. In no event shall any member of the commission claim to be acting on behalf of the commission unless such action was authorized in advance by vote of the commission.

(f) *Commission Attendance Required.* Any member who fails to attend any three consecutive meetings of the commission shall be deemed to have abandoned his or her membership on the commission. The commission may then recommend to the city manager that such position be declared vacant and request that a replacement be appointed and, if the city manager concurs with that recommendation, he shall then notify the member of his or her removal and proceed to fill the vacancy.

(g) *Powers & Duties of the Chair.* The chairperson of the commission shall have the following powers, duties and responsibilities:

- (1) establish the time, place and agenda for commission meetings in coordination with other commission members;
- (2) preside over meetings of the commission; and,
- (3) establish sub-committees of the commission and appoint members of the commission thereto.

(h) *Powers & Duties of the Vice-Chair.* The vice chairperson of the commission shall exercise the powers, duties and responsibilities of the chairperson in the event of the absence of the chairperson at any commission meeting or function or in the event of a vacancy in that position.

(i) *Duties of the Secretary of the Commission.* The secretary of the commission, either personally or through the commission on disability director, shall:

- (1) prepare and maintain minutes of all meetings of the commission and any of its sub-committees, which minutes shall include the date, time, place, members present or absent and the actions taken;
- (2) ensure that notice of all meetings is posted with the city clerk at least forty-eight hours before each meeting of the commission or any of its sub-committees;
- (3) maintain a file including all the correspondence and other papers received or generated by the commission or any of its sub-committees; and,
- (4) issue certified copies of any commission records or papers as required by law.

(j) *Acceptance of Grants.* The commission, with the approval of the city manager and a vote of the city council as provided in G.L. c. 44 § 53A, may accept in the name of the city of Worcester grants or gifts of funds from the federal government, a charitable foundation, a private corporation, an individual, or from the commonwealth or any city, town or county thereof. All grants or gifts shall be deposited in the city treasury and may be expended without further appropriation by the commission through contracts signed by the chairperson of the commission and the city manager as required by article 5-7 of the city charter or, if the amount is less than two thousand dollars, in accordance with the regulations issued or adopted by the city manager.

## **§ 9. Elder Affairs Commission Division**

(a) *Division Head.* The director of elder affairs shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of elder affairs shall:

- (1) administer the affairs of the commission and the senior center committee;

- (2) administer the programs and activities of the division;
- (3) collect facts and statistics and to conduct special studies affecting the health and welfare of the elderly population of the city;
- (4) encourage the development of programs for the elderly in Worcester;
- (5) identify the total needs of the community's older population;
- (6) educate and to enlist the support of the community on the needs of the elderly;
- (7) promote the coordination of programs designed for the elderly in Worcester;
- (8) advise the public agencies of the city on matters affecting the elderly;
- (9) prepare reports to the commission and the city manager on all state and federal legislation concerning the elderly, including but not limited to state and federal funds and programs available to the elderly;
- (10) cooperate with the executive office of elder affairs of the commonwealth;
- (11) manage and operate a senior center facility, which shall be the land and buildings acquired by the city of Worcester and located on Providence Street between Winthrop Street and Spurr Street ("senior center");
- (12) encourage and assure within the senior center the maximum level of coordination, collaboration and co-location of individuals and organizations, public and private, engaged in the delivery of services, programs and activities of interest to elders, such as: health insurance, caregiver, benefit and employment counseling services; medical and screening clinics; information and referral services on the issues of health, housing, transportation, education, legal assistance, consumer protection, public safety and support groups; on-site and delivered meals and emergency food distribution; literacy, citizenship and English-as-a-second-language instruction; vocational, cultural and computer programs; senior outreach; senior travel; recreational and wellness programs; dances; gardening; story telling; concerts and entertainment; transportation; day care for elders; and, child care for grandparents raising grandchildren;
- (13) execute on behalf of the department any contract, lease or any other legal document. Any such document involving two thousand dollars or more shall not be binding unless it is also signed by the city manager; and,
- (14) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 10. Elder Affairs Commission**

(a) *Establishment of Commission on Elder Affairs.* Under authority of the General Laws, chapter forty, section eight B, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Commission on Elder Affairs" ("commission").

(b) *Membership on the Commission.* The commission shall consist of fifteen members appointed by the city manager for terms of three years. The terms shall be staggered such that five terms shall expire on October thirty-first of each year.

(c) *Membership on the Senior Center Committee.* The city manager shall designate five members of the commission to serve as a standing committee of the commission and known as the "senior center committee".

(d) *Appointment of Chairs.* The city manager may, from time to time, designate one member of the commission as the chair of the commission and one member of the senior center committee of the commission as the chair of the senior center committee.

(e) *Duties & Responsibilities of the Commission.* The commission shall:

- (1) have general superintendence of the senior center;
- (2) make and enforce such rules and regulations as may be necessary or desirable for the efficient operation of the senior center; provided, that no such rule or regulation shall be voted upon by the commission unless it has first received a recommendation of the senior center committee as to the advisability of any rule or regulation;
- (3) establish standing or ad hoc committees for the conduct of its affairs; and,
- (4) may adopt rules of procedure for the operation of the commission and any committees so formed.

(f) *Duties & Responsibilities of the Senior Center Committee.* The senior center committee shall:

- (1) address all matters concerning the management and operation of the senior center; and,
- (2) make reports and recommendations to the commission on all items it considers. No recommendation of the senior center committee shall be deemed adopted unless and until it is approved by majority vote of the commission.

**§ 11. Human Rights Commission Division**

(a) *Division Head.* The director of human rights shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of human rights shall:

- (1) administer the affairs of the human rights commission and serve as the keeper of its records;
- (2) manage the programs and activities of the division;
- (3) have the power and duty to initiate complaints and investigations of discriminatory practices, report his or her findings to the commission and attempt mediation or conciliation of any complaint alleging discrimination;
- (4) perform such additional duties consistent with this ordinance as may be assigned from time to time by vote of the commission; and,
- (5) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Human Rights Policy.* It is the policy of the city to assure that every individual shall have equal access to and benefit from all public services, to protect every individual in the enjoyment and exercise of civil rights and to encourage and bring about mutual understanding and respect among all individuals of the city. It is clear that behavior which denies equal treatment to any of our citizens as a result of their race, color, religious creed, status, sexual orientation, disability or source of income undermines civil order and deprives persons of the benefits of a free and open society. Nothing in this section shall be constructed as supporting or advocating any particular religious view or lifestyle. To the contrary, it is the intention of this section that all persons be treated fairly and equally and it is the expressed intent of this ordinance to bring about the elimination of prejudice, intolerance, bigotry, discrimination and the disorder occasioned thereby.

## **§ 12. Human Rights Commission**

(a) *Establishment of Human Rights Commission.* Under authority of Article Six of the Home Rule Charter and to promote the human rights policy of the city, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Human Rights Commission" ("commission").

(b) *Membership.* The commission shall consist of nine members appointed by the city manager for a term of three years provided, however, that, the terms shall staggered such that no more than three terms expire in any one year. The commission shall annually select one of its members as its chair. The chair shall preside over the meetings of the commission. The commission shall represent a broad spectrum of the Worcester community. Any vacancy, however created, other than by expiration of a term, shall be filled by appointment by the city manager for the unexpired portion of the term.

(c) *Duties & Responsibilities of Commission.* The commission shall possess and exercise the power and duty to:

(1)conduct investigations: to receive and investigate complaints of and to initiate its own complaints and/or investigations of:

- (i) the denial of equal access to and discrimination in employment, housing, education, recreation and public accommodation (regardless of the public or private source of such denial or discrimination) where such denial or discrimination against a person is based on race, color, religious creed, national origin, gender, age, ancestry, marital status, parental status, sexual orientation, disability or source of income;
- (ii) the denial to any person of equal access to and benefit from all public services;
- (iii) the violation of the enjoyment and exercise by any person of his or her civil rights; and,
- (iv) the presence in the city of prejudice, intolerance, bigotry, discrimination and the disorder occasioned thereby;

*provided, however, that the executive director, with notice to the commission, shall refer any allegation involving the conduct of the any city employee, including the city manager, city clerk, city auditor or the superintendent of schools, to the Massachusetts Commission Against Discrimination or other appropriate state or federal agency and shall in no event initiate or otherwise conduct any investigation or inquiry regarding these officials or employees.*

(2)hold hearings: to take testimony, administer oaths, and conduct hearings and adjudicatory proceedings in accordance with sections 9, 10 and 11 of G.L. c.30A on any matter within its jurisdiction and, with the assistance and advice of the city solicitor, subpoena witnesses, seek court orders to compel the attendance of witnesses or the production of documents or other evidence;

(3)conduct mediation: to attempt, by mediation, to resolve any complaint over which it has jurisdiction and to recommend to the city manager or other appropriate governmental agency, federal, state or local, such action as it deems appropriate. In the conduct of any such mediation the commission may utilize not only the members and staff of the commission but such organizations as the Worcester County Bar Association, the National Association for Dispute Settlement of the American Arbitration Association and any other similar organizations;

(4)issue orders and reports: after completion of any investigation or hearings on any complaint or matter not resolved by mediation, the commission may:

- (A) upon a finding of an "unlawful practice", as that term is defined under section 4 of G.L. c.151B, issue cease and desist orders to the party believed to be responsible for such unlawful practice; provided, however, that in no event shall the commission issue any cease and desist orders to the city, its departments and agencies, or its employees insofar as the city employee is or was acting within the scope of his or her employment.
- (B) make a written report of its recommendations and findings to:
  - (i) the city manager on any matter within the manager's jurisdiction for review and implementation (including the taking of disciplinary or administrative action) as the city manager deems justified; or,
  - (ii) the school committee or superintendent of schools on any matter within their jurisdiction; or
  - (iii) the city council for employees under its jurisdiction; or the Massachusetts Commission Against Discrimination (MCAD) on any matter within its jurisdiction;
  - (iv) other governmental agency having jurisdiction over the matter in question,
  - (v) and, in all cases, urging and using its best efforts to bring about compliance with its recommendation; or
- (C) assist in securing legal representation for complainants for who, in the opinion of the commission, are indigent or facing undue financial hardship and arrange for legal representation for any complainant who, in the opinion of the commission, has a justifiable complaint which involves a matter outside of the jurisdiction of either the city manager, city council, superintendent of schools or school committee, yet one which is within the jurisdiction of the commission but must be processed by the complainant before the MCAD or some other state or federal governmental agency (or court), provided, however, that the commission shall attempt to secure such representation only for those complainants for whom undue hardship, in the opinion of the commission, would otherwise result;
- (5) review departmental policies: to review the existing policies, rules and regulations of any city department, board, commission or agency and provide its comments, conclusions and recommendations in writing to the city manager and the head or executive officer of any such city department, board, commission or agency, to the extent the foregoing regulations relate to the human rights ordinance of the city;

- (6) review departmental disciplinary actions: to review the results of any internal disciplinary action taken by any department, board, commission or agency of the city, including reports of the internal affairs division of the police department, and to make comments, conclusions and recommendations jointly to the city manager and the head or executive officer of any such department or agency to the extent such internal disciplinary investigations relate to the human rights ordinance of the city. Upon the request of the director, the head or executive officer of any department or agency of the city shall forward to the director a copy of any internal disciplinary action report at such time and only to the extent such report becomes a public record under the laws of the commonwealth.
- The head or executive officer of any city department or agency shall also furnish, subject to the provisions of this ordinance and with the advice and consent of the city solicitor, any other such records and information that the director may request relative to any internal disciplinary action. The director shall furnish the commission with copies of any internal disciplinary action report so received and may disclose to the commission, in an appropriate manner or setting as permitted or required by law, any other records and information received pursuant to this subsection. Any individual employed by the city, including members of the commission, the director or other staff, whether compensated or volunteers, who discloses any records or information of a personal nature or otherwise not subject to mandatory release under the public records law of the commonwealth, to any person, except as provided for herein, may be subjected to employee discipline by the appropriate city official or removed from the commission by the city manager, as the case may be;
- (7) issue publications: to issue such publications and such results of investigations and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination because of race, color, religious creed, national origin, sex, age or ancestry, marital status, parental status, sexual orientation, disability or source of income;
- (8) develop training programs: to develop, in cooperation with the executive offices of human resources and employment and training as well as any federal, state or other city agency or department, programs of instruction for city employees, other municipal employees, or private sector businesses, institutions or employees concerning the elimination of prejudice, intolerance, bigotry and discrimination and the value of mutual self-respect and the achievement of harmonious relationships among all individuals;
- (9) create committees: to create such committees from the members of the commission as, in the commission's judgment, will best aid in effectuating the provisions of this ordinance and to empower such sub-committees to study the problems of prejudice, intolerance, bigotry and discrimination existing in the city due to denial of equal treatment as a result of race, color, religious creed, national origin, gender, age, ancestry, marital status, parental status, sexual orientation, disability or source of income;

- (10) make recommendations and annual reports: to make such recommendations to any public official or public body as, in its judgment, will effectuate the policy of this ordinance and, annually, to make a written report to the city manager of its activities. The commission's annual report to the city manager shall be made available to the public;
- (11) make rules and regulations: to adopt rules and regulations consistent with this ordinance and the laws of the commonwealth to carry out the policy and provisions of this ordinance and the powers and duties of the commission in connection therewith; and to perform such other duties as may be prescribed under law;
- (12) In no event shall the commission file, or in any way be a party to any criminal actions or complaints in any court of law. In all civil matters the commission shall be represented solely by the city solicitor.

(d) *Contributions.* The commission may, with the approval of the city manager and city council, on behalf of the city, accept contributions, grants and appropriations from other governmental agencies and from civic and charitable foundations, trusts and other organizations, private or public, to effectuate the provisions of this section.

(e) *Relations with City Agencies.* Subject to the provisions of the city charter and the laws of the Commonwealth, the commission shall receive the cooperation and assistance of all city departments and agencies. The commission shall respect the privacy of all individuals. In the event the staff or members of the commission receive any documents or information of a confidential nature, or which would be exempt from disclosure under the public records law or which pertains to a subject eligible for discussion in executive session, neither the staff nor members of the commission shall release or divulge such documents or information to parties outside of the commission, its staff, the law department or any other appropriate city official. Unless otherwise provided, herein, all city departments and agencies shall respond to commission requests for administrative and legal services within ten working days of the date of receipt of any such request.

(f) *Definitions.* For purposes of this section the following definitions shall apply:

"age" refers to the actual or supposed chronological age of an individual eighteen years or older and shall relate to claims of denial of equal treatment due to age. This shall not limit the rights of persons under age eighteen to file a complaint for other than age discrimination (e.g. race discrimination, etc.) if accompanied by a guardian, where necessary.

"disability" refers to any actual or supposed physical or mental handicap of an individual, other than legal incompetency.

"internal disciplinary investigation" refers to any inquiry by the city manager or head of any city department or agency to determine whether the conduct of city employees complies with the ordinances, orders, policies and procedures of the city and, if not, what disciplinary measures are appropriate, insofar as such conduct involves allegations of the impairment or violation of the civil or human rights of any individual.

"marital status" refers to the actual or supposed state of being or having been unmarried, married, separated, divorced or widowed.

"parental status" refers to the actual or supposed condition of having or not having children.

"person" includes, but is not limited to, one or more individuals, partnerships, associations, corporations, agencies, legal representatives, trustees, trustees in bankruptcy and receivers, the city and all political subdivisions, boards and commissions.

"sexual orientation" refers to actual or supposed homosexuality, heterosexuality or bisexuality or orientation or practice including, but not limited to, an orientation that may be presumed on the basis of mannerisms, physical characteristics, manner of dress or deportment.

"source of income" refers to the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents excluding the use of criminal activities as a means of support.

(g) *Construction.* The provisions of this section shall be construed liberally for the accomplishment of the purposes hereof. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by federal and state law.

(h) *Effect of State and Federal Law.* Nothing in this section shall be deemed to exempt or relieve any person from any liability, duty, penalty or punishment provided by any present or future law of the commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this section.

### **§13. Public Health Division**

(a) *Division Head.* The director of public health shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of public health shall:

- (1) administer and manage the programs and activities of the division under the general superintendence of the commissioner of public health;
- (2) keep the commissioner of public health informed of the activities of the division and the information gathered by the division concerning public health issues;

- (3) administer the affairs of the board of health;
- (4) coordinate the department's inspection activities with other agencies;
- (5) investigate complaints and enforce the laws, ordinances, codes or regulations administered by the division; and,
- (6) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Commissioner of Public Health.* The commissioner of public health shall be appointed by the city manager for a three year term in accordance with the qualifications and requirements of chapter 181 of the acts of 1953.

(d) *Duties & Responsibilities of the Commissioner of Public Health.* The commissioner shall possess and exercise the power and duty to:

- (1) preserve, promote and protect the physical and mental health of the inhabitants of the city by developing and revising a public health program of the city and providing advice to the city manager on public health issues;
- (2) perform all duties and exercise all the powers vested in a commissioner of public health or a board of health by chapter one hundred eleven of the General Laws, or any other general or special law;
- (3) serve as chair of the board of health;
- (4) promulgate guidelines and regulations concerning the medical activities of the department; and,
- (5) perform such other duties as assigned by the city manager or as may be prescribed by law.

(e) *Inspectors of Animals.* At least one inspector of animals shall be a registered veterinarian and all shall be appointed annually by the city manager for a term of one year in accordance with the General Laws, chapter one hundred twenty nine, section fifteen.

#### **§ 14. Board of Health**

(a) *Board of Health.* The board shall consist of four members appointed by the city manager for staggered terms of three years each. One member shall have received the degree of doctor of medicine from a medical school classified by the American Medical Association as a Grade A school and another member shall have received a degree in dentistry from a dental school classified by the American Medical or Dental Association as a grade A school. The commissioner shall not be a member of the board but shall serve, *ex officio*, as the chair of the board and shall have no vote unless the board be equally divided.

(b) *Duties & Responsibilities of the Board of Health.* The board shall assist and act with the commissioner as provided in chapter 181 of the acts of 1953.

## **§ 15. Code Enforcement Division**

(a) *Division Head.* The director of code enforcement shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of code enforcement shall be responsible for the performance of the functions of the division and shall:

- (1) possess and exercise all of the powers, duties and responsibilities vested by section one of chapter one hundred forty three of the General Laws in a building inspector, including the authority to:
  - (A) administer and enforce the state building code pursuant to chapter one hundred forty three of the General Laws and the regulations adopted pursuant thereto;
  - (B) administer and enforce the provisions of the architectural access board pursuant to chapter twenty-two, section thirteen A, of the General Laws and the regulations adopted pursuant thereto;
  - (C) administer and enforce the Zoning Ordinance adopted pursuant to chapter forty A of the General Laws; and,
  - (D) perform the duties vested by chapter one hundred twenty-seven A of chapter one hundred eleven of the General Laws, or any other statute, in a commissioner of housing inspection.
- (2) exercise every authority provided by law to enforce building, housing and architectural access codes, laws, ordinances and regulations;
- (3) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and,
- (4) (4) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Reporting Authority.* When administering and enforcing the state building code as well as the requirements of the Architectural Access board, the director shall be directly responsible to the city manager. In all other respects, including the administration and enforcement of the zoning ordinance, the director shall report to the commissioner.

## **§ 16. Board of Library Directors**

(a) *Establishment.* To carry-out the terms of the deed of gift of Dr. John Green to the city of Worcester, dated December 27, 1859, and the last will and testament of Dr. John Green, and subject to the provisions of the General Laws chapter seventy-eight, section seven, there is hereby established under authority of Article Six of the Home Rule Charter within the department a division of the city to be known as the "Free Public Library" ("public library").

(b) *Division Head.* The board of library directors ("board") as so established shall head the division, which shall consist of the board, the head librarian and such other personnel as the city council, with the advice of the city manager, shall, from time to time, authorize in the budget.

(c) *Membership.* The board shall consist of twelve members who shall be appointed by the city council for terms of six years. The city council shall choose in the month of December two directors to fill the vacancies occurring on the first day of January next ensuing, which directors shall hold their office for the term of six years from the first day of January. All vacancies in the board, occasioned by death, resignation, removal from the city or otherwise, shall be filled in like manner, as they arise, for the unexpired term thereof, and no person shall be eligible to fill a vacancy arising from the expiration of his term of office.

(d) *Duties & Responsibilities.* It shall be the duty and responsibility of the board:

- (1) manage the Free Public Library;
- (2) have care and custody of the buildings and grounds of the library and any branches thereof;
- (3) have sole custody of the books;
- (4) promulgate any and all needful and suitable regulations concerning the Free Public Library and the use thereof;
- (5) manage all trust funds given or bequeathed for the benefit of the Free Public Library, including such trust funds formerly under the control of the board of commissioners of Trust Funds; and,
- (6) perform such other duties as may be prescribed by law.

(e) *Organization of the Board.* The directors shall meet as soon as may be after the first day of January in each year and organize into a board by the choice of a president and a secretary from their own number. A majority of the board shall be required for the transaction of business.

(f) *Secretary.* The secretary shall have the care and custody of all books, records, papers and documents belonging to the board and shall record all the doings of the board in a book to be furnished by the city, and he shall deliver the books, records, papers and documents to his or her successor in office.

(g) *Head Librarian & Officers.* The board shall appoint the head librarian and all subordinate officers and may remove such officers at pleasure. All other personnel of the library shall be appointed in accordance with law. The head librarian shall be the executive officer of the board and shall perform the duties and responsibilities described in section 5(b)(1-10) above unless any such duty or responsibility shall be incompatible with any authority exercised under the provisions of the deed of gift or last will and testament of Dr. John Green.

**§ 17. Early Scholarship Committee**

(a) *Establishment of Early Scholarship Committee.* Pursuant to chapter 194 of the Acts of 1986, as amended by chapter 712 of the Acts of 1987, which added section three C of chapter sixty of the General Laws of Massachusetts, as accepted by the city by vote of the city council on January 13, 1987, and under authority of Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a scholarship committee of the city to be known as the "Early Scholarship Committee" ("committee").

(b) *Membership.* The committee shall consist of five residents of the city, one from each election district, appointed by the city manager for terms of three years. The terms shall be staggered such that two terms shall expire each July thirty-first for two consecutive years and one term shall expire on July thirty-first of the next year. The superintendent of schools of the city, or his or her designee, shall also serve on the committee as an ex-officio member.

(c) *Duties & Responsibilities.* The committee shall serve in the memory of former Mayor and City Councilor Thomas J. Early, select the recipients of the amount of financial aid from the scholarship fund created by section three C of chapter sixty of the General Laws and perform such other functions, including the selection of scholarship recipients from other sources of funds, as may be designated by the city manager.

(e) *Selection Criteria.* The committee may adopt any criteria to assist in the selection of recipients, subject to any relevant ordinance and further subject to the following criteria:

- (1) the recipients of financial aid must be residents of the city at the time the financial aid is first awarded and have been accepted to pursue education beyond the secondary school level at an institute deemed accredited by the committee; and,
- (2) the committee shall take into consideration each recipients' financial need, character, scholastic record and involvement in community work as well as extracurricular school activities.

(f) *Distribution of Aid.* The committee may distribute financial aid from both interest and principal of the fund, without further appropriation. The committee shall establish a procedure for determining at least on an annual basis the amounts or percentage of the funds that shall be authorized for distribution and for notifying the city treasurer or other investing officer or agency so that the funds may be made available in a timely manner and with a minimum of penalties.

**§ 18. Status of Women Committee**

(a) *Establishment of the Advisory Committee on the Status of Women.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an agency of the city to be known as the "Advisory Committee on the Status of Women" ("committee").

(b) *Membership.* The committee shall consist of fifteen persons appointed by the city manager for three year terms. The terms shall be staggered such that five terms shall expire on August thirty-first of each year. From time to time, the city manager shall designate the chair of the committee.

(c) *Duties & Responsibilities.* It shall be the function of the committee to:

- (1) formulate, encourage, promote and monitor programs and policies relating to the status of women in the city;
- (2) submit annually to the city manager a report stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the status of women in Worcester; and,
- (3) appoint sub-committees as may be needed to carry out its responsibilities.

#### **§ 19. Veteran's Services Division**

(a) *Division Head.* The director of veteran's services shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director shall:

- (1) administer and manage the programs and activities of the division under the general superintendence of the commissioner;
- (2) perform all duties prescribed by chapter one-hundred fifteen of the General Laws;
- (3) administer the disbursement of veteran's benefits;
- (4) provide services to veterans, members of the armed forces, their families and their dependents;
- (5) provide information and advice to veterans as may be necessary to enable them to procure the benefits to which they are entitled;
- (6) maintain close cooperation with state and federal agencies established for the aid of veterans; and,
- (7)(7) perform the duties and responsibilities described in section 5(b)(1-10) above

## **Article 6. Auditing Department**

- § 1. Establishment
- § 2. Function
- § 3. Personnel
- § 4. Head of Department
- § 5. Duties & Responsibilities
- § 6. Bond; City Auditor Pro Tempore
- § 7. Accounts and Contract Ledgers
- § 8. Supervision of Accounts
- § 9. Procedure for Payment of Bills
- § 10. Appropriations Report - Finance Committee
- § 11. Audits of Certain Departments
- § 12. Annual Audit
- § 13. Annual Report of Indebtedness
- § 14. Reports of the Housing & Redevelopment Authorities
- § 15. Return to Assessors
- § 16. Delivery of Assessments and Accounts
- § 17. Approval of Purchase Orders
- § 18. Reports of Payments

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### **§ 1. Establishment**

Under authority of Article Two, § 2-8(b) and Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city council a department of the city to be known as the "Auditing Department" ("department").

### **§ 2. Function**

It shall be the function of the department through the city auditor to perform the pre-audit of financial transactions of municipal departments, boards, commissions and committees of the city, including the school department.

### **§ 3. Personnel**

The department shall consist of the city auditor and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

### **§ 4. Head of Department**

The department shall be headed by the city auditor, who shall be elected by the city council for a term of three years; and who shall reside in the city.

## § 5. Duties & Responsibilities

The city auditor shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the general policies and requirements of the city manager and chief financial officer;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) keep and have charge of the accounts of the city;
- (5) audit from time to time the books and accounts of all agencies of the city;
- (6) perform such other duties as may be prescribed by law;
- (7) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (8) keep the city council informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the finances of the city;
- (9) seek the advice of the city council prior to changing any existing policy or initiating any new program or service;
- (10) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city council;
- (11) perform such other tasks and functions as may be requested by the city council;
- (12) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;

- (13) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (14) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city council;
- (15) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city council; and,
- (16) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city council.

#### **§ 6. Bond; City Auditor Pro Tempore**

The city auditor shall give a bond with surety or sureties to be approved by the city council, in the sum of five thousand dollars, for the faithful performance of his or her duties, and the delivery to his or her successor or to the city clerk, of all books papers, documents and property belonging to the office. Whenever the office of the city auditor shall be vacant or whenever he or she may, from any cause, be unable to perform the duties of the office, the city council may elect a city auditor pro tempore, to hold office, unless sooner removed by the city council, until the vacancy shall be filled by the city council, or the disability shall cease, as the case may be; provided, that such city auditor pro tempore, shall have all the powers and be subject to all the liabilities which pertain to the office.

#### **§ 7. Accounts and Contract Ledgers**

(a) The city auditor shall keep his accounts in the form now in use until otherwise ordered by the city council, and by such divisions and such details as may be necessary to show a clear exhibit of the expenses incurred by each of the several departments of the government, in their various operations, stating, among other things, the appropriation for each department, and for each distinct object or expenditure; and whenever the appropriations for any department or for any objects have been exhausted, he shall immediately communicate the fact to the city manager and the city council, and all expenditures therefor shall cease until a further appropriation is duly made. The city auditor, when requested, shall furnish to the chair of the board, or head of the department having work in charge, the amount of the appropriation therefor, and the amount drawn in gross or in detail.

(b) In addition to the system now in operation in the auditing department, the city auditor, under the direction of the city council, shall maintain appropriation and contract ledgers on which daily entries of expenses incurred and encumbrances assumed shall be made and from which daily unexpended balances and unencumbered balances may be obtained.

## **§ 8. Supervision of Accounts**

The city auditor, under the direction of the city council, shall have general supervision of the accounts kept by the several city departments and shall require the several departments to keep such accounts as may be necessary in such form as he or she shall prescribe.

## **§ 9. Procedure for Payment of Bills**

The city auditor shall receive all bills and accounts from persons having demands against the city, examine them in detail, and have them filed and entered in books in such manner and form as the city council may direct. All doubtful bills and accounts so received shall be presented by the city auditor to the city manager before being entered in such books. Before money is paid out of the city treasury, a requisition therefor, in writing, with detailed accounts attached, specifying the amount to be paid, and the party or parties to whom the payment is due, shall be made by the board or head of the department incurring the expenditure, upon the city auditor. He shall receive all such requisitions, accounts and claims rendered against the city, and carefully examine the same, and shall see that they are correctly cast and approved. In case of any error or informality, he shall make note of the fact, and return the bill or demand with the objections to the officer, board or person presenting the same. When invoices for services rendered or supplies furnished shall have been recorded by the city auditor, the draft or order upon the city treasurer for the payment of the aggregate amount of the bills aforesaid shall be signed by the city manager, and countersigned by the city auditor. The city auditor shall give a certificate for all bills approved as aforesaid to the city treasurer, which certificate shall specify the name of the person or persons authorized to receive the amount due, together with amount duly approved and payable to the person. Such certificate shall be signed by the city auditor, and upon presentation shall be paid by the city treasurer.

## **§ 10. Appropriations Report - Finance Committee**

The auditor shall make an exhibit of the state of the appropriations monthly to the city council; shall render such other services as the city council may direct; and, shall attend all meetings of the city council finance committee.

## **§ 11. Audits of Certain Departments**

The city auditor shall cause to be made a post audit of any or all city departments, if an appropriation is made therefor. This audit shall be made by a certified public accountant, licensed under the General Laws, recommended by the city auditor and approved by the city council.

## **§ 12. Annual Audit**

The auditor shall obtain an annual independent audit of the accounts of the city in accordance with the requirements of the director of accounts of the department of revenue acting pursuant to G.L. c.44, §§ 40 & 42.

### **§ 13. Annual Report of Indebtedness**

All heads of departments and all other officers and boards, including boards of trustees and boards of directors having authority to expend money, shall report annually in writing to the city auditor, not later than the 15th day of July, whether or not they, in their official capacity, or their respective departments or boards, owed any debt at the end of the financial year ending the 30th day June preceding, which was incurred that year and if any, the amount thereof. The city auditor shall, thereupon, furnish each member of the city council at its first meeting next following the 15th day of August, a written statement of the amount of such indebtedness of each department, officer or board in excess of their respective unexpended appropriations for the same year, including also mention of those departments, officers or boards having no such indebtedness.

### **§ 14. Report of the Housing and Redevelopment Authorities**

(a) If requested by the city council, on or before the 30th day of December in each year, the city auditor shall submit a report to the city council, as of the last day of the preceding financial year, covering all financial transactions and agreements that the city has had with the Worcester Housing Authority and the Worcester Redevelopment Authority. This report shall be segregated by fiscal year and shall be further segregated as to each project. The report shall include a statement of all capital outlays by the city, and shall be further segregated as to land gifts, expenditures for making streets public, expenditures for constructing sewers and water connections and any other capital expenditures by the city.

(b) The report shall also include a statement of all monies which the Worcester Housing Authority and Worcester Redevelopment Authority paid over to the city from projects, the sources from which that money was derived, the reason for such payment and the application which the city made of such receipts.

(c) The report shall contain a statement of all monies borrowed by the city for the financing of such projects and the amounts matured and outstanding, together with interest paid and accrued on such borrowings.

### **§ 15. Return to Assessors**

It shall be the duty of the city auditor, upon request of the assessors and before the tax rate is set in each year, to make a return to the assessors of all sums appropriated, granted or lawfully expended by the city since the last preceding annual assessment and not provided for therein, and all sums necessary to satisfy final judgments recovered against the city, specifying the sums for the payment of which the city shall have voted to contract debts under the laws relating to municipal indebtedness; also the amount of temporary loans expressly made payable from the taxes of the current year by vote of the city council, and incurred in anticipation thereof; also all sums required for the payment of interest upon the debt of the city.

#### **§ 16. Delivery of Assessments and Accounts**

It shall be the duty of the several departments and officers of the city to cause to be delivered to the city auditor, who shall take account of and deliver the same to the collector of taxes for collection, all special taxes, assessments and accounts against persons indebted to the city, and no other department or officer of the city, except the collector of taxes, shall receive payment of any such account, except when specially authorized to receive the same.

#### **§ 17. Approval of Purchase Orders**

The several officers of the city and departments to which appropriations are voted by the city council shall present to the city auditor before liability is incurred all orders for services, materials and supplies or any other expenditures or obligation for any of the several departments for his approval as to sufficient funds in the accounts affected to warrant the expenditure of the amount stated in the order. To meet this requirement, a standard system shall be installed in the various departments, subject to the approval of the city auditor, and under the supervision of the city council.

#### **§ 18. Reports of Payments**

All officers authorized to receive money in behalf of the city shall, as often as once in each month, pay over the same to the city treasurer and collector of taxes, reporting at the time of payment the amount thereof to the city auditor, and the city auditor shall audit the accounts of all such officers at the close of each municipal year, and at the expiration of their respective terms of office, or at any other time when ordered by the city council, and for this purpose the auditor shall have access to all books and vouchers in the possession of any officer or committee of the city, and he shall in every case when so ordered, report to the city council the result of his examination.

## **Article 7. City Clerk Department**

- § 1. Establishment
- § 2. Function
- § 3. Personnel
- § 4. Head of Department
- § 5. Duties & Responsibilities
- § 6. Assistant City Clerks
- § 7. City Council Meetings
- § 8. Committee Meetings

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### **§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city council a department of the city to be known as the "City Clerk Department" ("department").

### **§ 2. Function**

It shall be the function of the department to be the official custodian of the city's records, papers and documents and to carry out those duties and responsibilities required by law.

### **§ 3. Personnel**

The department shall consist of the city clerk and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

### **§ 4. Head of Department**

The department shall be headed by the city clerk, who shall be appointed by the city council.

### **§ 5. Duties & Responsibilities**

The city clerk shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the general policies and requirements of the city manager and chief financial officer;

- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) keep to furnish the collector of taxes with an account of any and all assessments made by the city council relating to streets, sidewalks, sewers and otherwise, as soon as may be after such assessments are made;
- (5) perform such other duties as the city council may from time to time require;
- (6) annually report in detail in writing, to the city council all monies received by him as fees or otherwise during the preceding financial year;
- (7) furnish the justices of the Central District Court, the clerk of the superior court for the county of Worcester, the clerk of the Central District Court, the Free Public Library, the Worcester County Library and the chief of police, with attested copies of all ordinances passed by the city council; perform such other duties as may be prescribed by law;
- (8) keep books in which shall be alphabetically arranged the names of all the streets, highways and sidewalks which now are or may hereafter be accepted or laid out, with the date of such laying out or acceptance, and the width thereof, and all alterations therein from time to time made by the city council;
- (9) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (10) keep the city council informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the finances of the city;
- (11) seek the advice of the city council prior to changing any existing policy or initiating any new program or service;
- (12) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city council;
- (13) perform such other tasks and functions as may be requested by the city council;

- (14) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (15) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (16) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city council;
- (17) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city council; and,
- (18) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city council.

#### **§ 6. Assistant City Clerks**

(a) The city council shall appoint two assistant city clerks on the recommendation of the city clerk.

(b) In addition to having such powers and performing such duties as may from time to time be prescribed for them by the city clerk, it shall be the duty of the assistant city clerks to assist the city clerk in recording, indexing and certifying mortgages of personal property, assignments of wages and other documents required by law to be recorded, and also to attest documents and perform all other duties pertaining to the office of city clerk when thereto requested by him or when the office of city clerk shall be vacant from any cause.

#### **§ 7. City Council Meetings**

The city clerk or an assistant city clerk shall attend all meetings of the city council. The city clerk shall prepare a calendar of the agenda for each meeting and keep the official records of all such meetings.

**§ 8. Committee Meetings**

The city clerk shall notify the members of the council committees of the meetings thereof and, when requested by the chair of any committee, shall perform such other duties as the committee may require. The city clerk or an assistant city clerk shall attend each meeting of the several committees of the city council and shall make a proper record of all the proceedings and the transaction of the business of each meeting.

## **Article 8. Law Department**

- § 1. Establishment
  - § 2. Function
  - § 3. Personnel
  - § 4. Head of Department
  - § 5. Duties & Responsibilities
  - § 6. Assistant City Solicitors
  - § 7. Claims Committee
  - § 8. Legal Assistants
- 

### **§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Law Department" ("department").

### **§ 2. Function**

It shall be the function of the department to furnish the legal services and advice to all agencies and officers and employees of the city as may be lawfully requested or required.

### **§ 3. Personnel**

The department shall consist of a city solicitor and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

### **§ 4. Head of Department**

The department shall be headed by the city solicitor, who shall be the chief legal officer of the city, and who shall be appointed by and shall serve at the pleasure of the city manager. The city solicitor shall be a member of the bar of the Commonwealth.

### **§ 5. Duties & Responsibilities**

The city solicitor shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;

- (3) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (4) perform provide the legal services, assistance or counsel required by any agency or officer of the city;
- (5) initiate or defend any legal proceeding in which the city is or may be a party or have an interest in and to defend such officers or employees in any proceedings brought against them to which they are or may be entitled to such defense by the city;
- (6) draft the legal instruments of the city;
- (7) review for legal requirements all contracts prior to their execution by the city manager;
- (8) establish such procedures as may be necessary for officers and employees of the city to report and assist in any legal proceedings involving the city or its officers and employees;
- (9) supply city agencies, officers and employees with such forms as may be necessary for the legal conduct of the affairs of the city;
- (10) obtain from the federal government, the General Court, the Attorney General, and from the courts of the Commonwealth, information that may affect the city on proposed or existing laws, interpretations and decisions thereof. To make this information known to the city manager and to the head of any department that may be affected thereby;
- (11) when requested by the city manager, provide legal representation to the Worcester Redevelopment Authority, Worcester Retirement Board, the Upper Blackstone Water Pollution Abatement District and such other entities related to the business of the city of Worcester as the city manager may from time to time further authorize;
- (12) attend all meetings of the city council;
- (13) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (14) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the peace, security and good order of the city;
- (15) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;

- (16) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (17) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (18) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (19) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (20) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (21) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (22) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

**§ 6. Assistant City Solicitors**

(a) The city manager may appoint, as shall be provided for in the budget, assistant city solicitors to serve at his pleasure. The assistant city solicitors shall be members of the bar of the commonwealth and shall perform such duties as the city solicitor may direct.

(b) The city manager may also appoint special assistant city solicitors for specific legal matters or cases; said special assistant city solicitors shall be subject to the direction and control of the city solicitor and shall be a member of the highest bar of a state or territory of the United States.

**§ 7. Claims Committee**

When requested by any claimant whose claim has been denied by the claims agent, the city solicitor may create a claims committee consisting of two or more attorneys in the department to hear claimants, all of whom shall receive proper notice of the time and place of such hearing investigate. The committee shall have authority to make recommendations to the city solicitor on the ultimate disposition of any claim presented to it.

**§ 8. Legal Assistants**

The city manager may also appoint, as shall be provided for in the budget, legal assistants, who shall devote full time to their duties and who shall serve at his pleasure. Legal assistants shall be members of the bar of the commonwealth and shall perform such duties as the city solicitor may direct, provided, however, that the city manager may appoint temporary legal assistants who are candidates for admission to the bar of the commonwealth.

**Amendment 8623**

AN ORDINANCE RELATIVE TO CERTAIN PERMIT  
AND INSPECTION FEES FOR THE CENTRAL STREET HOTEL PROJECT

Be it Ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter two of the Revised Ordinances of 1996 is hereby amended by inserting a new section twenty-nine A as follows:

**§ 29A. Central Street Hotel Permit Fees**

(a) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the maximum aggregate fee for building code and inspectional permits issued by the Department of Code Enforcement relative to the initial construction by Fargo Management, LLC, or its agents, of a Hilton Garden Inn hotel consisting of approximately 199 rooms, including suite-type rooms, shall be fifty thousand (\$50,000) and the maximum aggregate fee for water and sewer connection and public works inspectional permits issued by the Department of Public Works shall be twenty-five thousand (\$25,000).

(b) Whenever the total permit fees governed by this ordinance shall reach such amounts, the head of the respective department shall notify the city manager. Thereafter, whenever the hotel developer, its contractor or other authorized person, files an application or any permit or inspection which would otherwise require the payment of a fee, the head of such department shall cause the permit to be issued with a notation "Fee Paid Pursuant to § 29A, c. 2, R.O. 1996" and shall send a copy of such permit, as issued, to the city manager.

(c) This section shall expire with the issuance of a permanent certificate of use and occupancy or December 31, 2007, whichever comes first. Upon the expiration of this section, the heads of the departments issuing permits under this ordinance shall prepare a written report to the city manager showing the total number and types of permits issued, the fees paid and the fees waived by operation of this ordinance.

In City Council January 4, 2005  
Passed to be ordained by a yea and nay vote of Ten Yeas and One Nay.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8628**

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF TWO ADDITIONAL  
TAXICAB MEDALLIONS FOR HANDICAPPED ACCESSIBLE CABS

Be It Ordained by the City Council of the city of Worcester as follows:

Chapter Eleven of the Revised Ordinances is hereby amended by inserting the following at the conclusion of the first sentence in section 22(c) thereof:

Notwithstanding the foregoing, the chief of police may grant two additional taxicab licenses and medallions on the condition that the licensee holding each such license shall operate said taxicabs in compliance with taxicab handicapped accessibility regulations adopted by the city commission on disability. The chief of police may grant such licenses only to such persons who shall otherwise qualify for such a license and medallion under this ordinance and who shall comply with the laws, ordinances, regulations, license conditions and terms otherwise applicable to the holder of a taxicab license and medallion issued under these ordinances.

In City Council March 22, 2005

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

**David J. Rushford**  
City Clerk

**Amendment 8650**

AN ORDINANCE AMENDING CHAPTER FIVE  
SECTION SIX OF THE  
REVISED ORDINANCES OF 1996

Be it Ordained by the City Council of the city of Worcester as follows:

1. Section Six of Chapter Five of the Revised Ordinances of 1996 is hereby amended by deleting subsection (b)(ii) in its entirety and inserting the following in lieu thereof:  
  
"(ii) "The applicant pays, in addition to the sewer connection permit fee established by the commissioner, a fee determined at the rate of six dollars times the number of gallons per day proposed to be introduced by the new connection. The amount of gallons per day to be introduced by the new connection shall be calculated in accordance with the sewage flow estimates contained in subsection (e) herein, or as determined by the commissioner of public works."  
  
2. Section Six of Chapter Five, subsection (b) of the Revised Ordinances of 1996 is hereby amended by inserting the following sub-paragraph (iii):  
  
"(iii) "Commencing July 1, 2006, and each fiscal year thereafter, the sewer capacity fee established in section 5(b)(ii), shall automatically increase by the amount of the Transportation and Treatment cost of the prior fiscal year."  
  
3. This amendment shall be effective July 1, 2005.

In City Council June 21, 2005

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8651**

AN ORDINANCE AMENDING CHAPTER FIVE SECTION TWENTY-SIX  
OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO SEWER USER CHARGE

Be It Ordained by the City Council of the City of Worcester as follows:

1. Section twenty-six of Chapter Five of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by deleting in paragraph (g) thereof the number "\$2.61" and inserting in lieu thereof the number "\$3.11".

2. This amendment shall be effective as of July 1, 2005 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 1996.

In City Council June 21, 2005

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk

*David J. Rushford*  
City Clerk

**Amendment 8670**

AN ORDINANCE RELATIVE TO CERTAIN PERMIT AND INSPECTION FEES  
FOR THE CITY SQUARE PROJECT

Be it Ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter two of the Revised Ordinances of 1996 is hereby amended by inserting a new section twenty-nine B as follows:

**§ 29B. CitySquare Project Permit Fees**

(a) The city council hereby finds and declares that Worcester Renaissance, LLC, is prepared to invest \$470 million into downtown Worcester for the reconstruction of the former Worcester Center (a.k.a. Worcester Common Outlets) Mall property ("CitySquare Project") by demolishing large portions of the existing buildings, reestablishing the locations of public ways and spaces on and through the Project Property, constructing 1.5 million square feet of new building space consisting of housing, commercial office, medical/clinical space, limited retail space and entertainment venues and renovating portions of the two existing office buildings and the remaining portions of the existing retail space and the existing parking garages (collectively, the "Private Project Elements").

(b) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the fees for construction, building or utility permits issued by the city of Worcester or any department, agency, board or commission thereof, (hereinafter collectively referred to as "permits"), necessary for construction of the development program as stated in the attachment to a certain Memorandum of Agreement dated April 30, 2005 by and between the city of Worcester and Worcester Renaissance, LLC, and Worcester Towers, LLC, shall be aggregated and reduced to two million dollars.

(c) The fee established by this ordinance shall be paid by Worcester Renaissance, LLC, in two equal annual installments of one million dollars on January 3, 2006 and January 3, 2007.

(d) Fees payments under this ordinance shall be made to the city manager, who shall issue appropriate documentation confirming payment of the fee. Any permit granting department, agency, board or commission of the city shall, upon presentation of such documentation by an applicant seeking a permit relative to the CitySquare Project, process the permit application without payment of additional fees and shall indicate on the permit application the following: "Fee paid pursuant to § 29B, c. 2, R.O. 1996."

(e) Anticipating that Worcester Renaissance, LLC, shall construct and complete the Private Project Elements in phases and that the tenants of Worcester Renaissance, LLC, shall thereafter finish construction of each tenantable space within the CitySquare Project, this permit fee reduction shall apply to any permits necessary for such tenant fit-out but shall expire upon the date of issuance of the first permit for use and occupancy for each such portion of the Project Property. Notwithstanding the previous sentence, this ordinance shall expire on June 30, 2015 and the fee otherwise then in effect shall apply to any permits issued after such date.

In City Council July 19, 2005  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**AN ORDINANCE RELATIVE TO  
TAXI SERVICE**

Be it Ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter eleven §16, of the Revised Ordinances of 1996 is hereby amended by inserting after subsection (g) the following new subsections as follows:

(h) The chief of police may establish additional rules and regulations for the issuance of a license or medallion to any taxicab owner and to any taxicab driver, and for the regulation of taxicab service in the city. Such rules and regulations issued by the chief of police shall become effective after filing with the city clerk. All taxicab service in the city shall conform to the rules and regulations issued by the chief of police and on file with the city clerk. Any violation of the rules and regulations issued by the chief of police for taxicab service shall be deemed a violation of these ordinances.

(i) After notice and hearing the chief of police may suspend or revoke any license or taxicab medallion issued to any taxicab owner or to any taxicab driver for: (i) violation of any criminal law after issuance of such license or taxicab medallion which renders the licensee unfit; (ii) failure to pay or lawfully contest any fine, penalty or ticket issued under pursuant to subsection (h) of these ordinances or to pay any taxes assessed to the licensee or taxicab owner; or (iii) any violation of the rules and regulations established pursuant to subsection (h) which constitutes a danger to the health or safety of the public in the exercise of any license or medallion issued under these ordinances.

**In City Council    October 18, 2005**

**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy.    Attest:**

**David J. Rushford, Clerk**  
*David J. Rushf*  
**City Clerk**

AN ORDINANCE RELATIVE TO  
LIVERY SERVICE

Be it Ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter eleven §17, of the Revised Ordinances of 1996 is hereby amended by deleting the existing §17 and inserting in lieu thereof the following new §17 as follows:

17. Liveries

(a) Definitions: (i) Livery Service: providing transportation for hire for a prearranged fare on a prearranged basis by means of a livery vehicle which does not contain a rate meter and does not charge for service based on miles traveled if the trip is less than twenty-five (25) miles. Excluded from this definition are services provided by a licensed taxicab and by a common carrier licensed under the provisions of c.159A of the general laws; (ii) Livery Operator: a person or entity which owns or has legal control of a livery vehicle and provides livery service by means of such vehicle; (iii) Livery Vehicle: a motor vehicle used to provide livery service and displaying a livery registration number plate issued by the registry of motor vehicles; (iv) Livery Vehicle Driver: any person driving a livery vehicle while providing livery service.

(b) The chief of police may grant a license to any livery operator if the chief finds, after investigation including but not limited to any criminal or sexual offender registry information, that the livery operator is suitable to hold such license. The fee for the issuance of such license to a livery operator shall be one hundred dollars for each livery service vehicle licensed.

(c) The chief of police may grant a license to any livery vehicle driver if the chief finds, after investigation including but not limited to any criminal or sexual offender registry information, that the livery vehicle driver is suitable to hold such license. The fee for the issuance of such license to a livery vehicle driver shall be five dollars.

(d) No person shall provide livery service in the city until the livery operator has obtained from the chief of police a license to operate such livery service.

(e) No person shall drive a livery vehicle in the city until that person has obtained from the chief of police a license to drive such livery service vehicle.

(f) The chief of police may establish rules and regulations for the issuance of a license to any livery service operator and to any livery service driver, and for the regulation of livery service in the city. Such rules and regulations issued by the chief of police shall become effective after filing with the city clerk. All livery service in the city shall conform to the rules and regulations issued by the chief of police and on file with the city clerk. Any violation of the rules and regulations issued by the chief of police for livery service shall be deemed a violation of these ordinances.

(g) After notice and hearing the chief of police may suspend or revoke any license issued to any livery service operator or to any livery service driver for: (i) violation of any criminal law after issuance of such license which renders the licensee unfit; (ii) failure to pay or lawfully contest any fine, penalty or ticket issued under pursuant to subsection (f) of these ordinances or to pay any taxes assessed to the licensee; or (iii) any violation of the rules and regulations established pursuant to subsection (f) which constitutes a danger to the health or safety of the public in the exercise of any license issued under these ordinances.

**In City Council** **October 18, 2005**  
**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford**  
***David J. Rushford***  
**City Clerk**

**Amendment 8698**

AN ORDINANCE RELATIVE TO  
NON-CRIMINAL DISPOSITION OF VIOLATIONS  
RELATING TO TAXICAB AND LIVERY SERVICES

Be it Ordained by the City Council of the City of Worcester, as follows:

*Section 1.* Chapter fifteen §2(b), of the Revised Ordinances of 1996 is hereby amended by inserting after clause (xxii) the following new clause as follows:

(xxiii)

Violation of the rules and regulations issued by the chief of police for taxicab service, Revised Ordinances Chapter 11 §16 and for livery service, Chapter 11 §17.

Penalty:

First Offense	\$100
Second Offense	\$200
Third of Subsequent Offenses	\$300

Enforcing person: the chief of police or any officer of the Worcester police department

In City Council    October 18, 2005

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy.    Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8700**

AN ORDINANCE AMENDING CHAPTER THIRTEEN OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO  
INTERFERENCE WITH SNOW REMOVAL, LEAF COLLECTION, STREETSWEEPING OPERATIONS

Be it ordained by the city council of the city of Worcester, as follows:

Section 1. Chapter 13 of the Revised Ordinances of the city of Worcester (1996) be and is hereby amended by deleting section sixty-five in its entirety and inserting the following in lieu thereof:

**§65. Parking so as to Interfere with Snow Removal, Street Cleaning or Leaf Collection Operations**

(a) The owner of a vehicle or person in whose name it is registered shall not allow, permit or suffer such vehicle to stand or park in any street, way, highway or parkway under the control of the city in such a manner as to interfere with the work of plowing, removing snow or ice, or leaf collection operations.

(b) The owner of a vehicle or person in whose name it is registered shall not allow, permit or suffer such vehicle to stand or park in any street, way, highway or parkway under the control of the city in such a manner as to interfere with the work of street cleaning operations.

(c) In any case of removal of snow or ice, street cleaning operations, or leaf collection operations, reasonable notice by temporary signs or markers shall be give of such operations.

Section 2. Section 36 of chapter 13 of the Revised Ordinances of the city of Worcester (1996) be and is hereby amended as follows:

(a) By deleting the reference to "§65" in subsection (b); and,

(b) By inserting a reference to "§65(b)" in subsection (f).

**In City Council    October 25, 2005  
Passed to be ordained by yea and nay vote of Eleven Yeas and No Nays.**

**A Copy.    Attest:**

**David J. Rushford, Clerk**  
*David J. Rushfor*  
**City Clerk**

**Amendment 8701**

AN ORDINANCE AMENDING CHAPTER THIRTEEN OF THE  
REVISED ORDINANCES OF 1996 RELATIVE TO  
PARKING OF UNREGISTERED AND UNINSPECTED VEHICLES

Be it ordained by the city council of the city of Worcester, as follows:

Section 1. Chapter 13 of the Revised Ordinances of the city of Worcester (1996) be and is hereby amended by inserting a new section 57A as follows:

**§57A. Parking Vehicles on Public Ways Without a Valid Registration or Certificate of Inspection**

(a) No person shall park a vehicle that is unregistered or invalidly registered as required by G.L. c. 90 upon any public way whether or not such vehicle is in an otherwise permissible parking space.

(b) No person shall park a vehicle not bearing a valid certificate of inspection as required by G.L. c. 90 upon any public way whether or not such vehicle is in an otherwise permissible parking space.

Section 2. Section 36 of chapter 13 of the Revised Ordinances of the city of Worcester (1996) be and is hereby amended as follows:

(a) By inserting a reference to "§57A(b)" in subsection (d); and,

(b) By inserting a reference to "§57A(a)" in subsection (f).

In City Council    October 25, 2005  
Passed to be ordained by yea and nay vote of Eleven Yeas and No Nays.

A Copy.    Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8703**

**AN ORDINANCE REORGANIZING  
THE DEPARTMENTS, BOARDS & COMMISSIONS  
OF THE CITY OF WORCESTER**

Whereas, on December 21, 2004 the City Council approved and adopted a Reorganization Plan and Ordinance proposed by the City Manager under Article VI of the Home Rule Charter; and

Whereas, such Reorganization Plan and Ordinance involved a comprehensive reorganization of all City Departments, Agencies, Boards and Commissions and contained an effective date of July 1, 2005; and,

Whereas, the City Manager has recommended a number of corrections and minor modifications to the text of the Reorganization Ordinance; and,

Whereas, in the preparation of the Annual Budget of the City for Fiscal Year 2006 the City Manager proposed appropriations for several position titles and presented divisional groupings and reporting authorities in several departments which should be reflected in the comprehensive organizational ordinances of the City of Worcester; and,

Whereas, the City Council has approved the Annual Budget with those appropriations for the new position titles, division groupings and reporting authorities; and,

Whereas, the City Manager has recommended certain modifications to the organizational ordinances under Article VI of the Home Rule Charter.

Now, Therefore, Be it ordained by the City Council of the city of Worcester, as follows:

§ 1. The Revised Ordinances of 1996 are hereby amended by deleting the entire text of Part Two, Organization of City Agencies, thereof as adopted on December 21, 2004, and inserting in lieu thereof a new Part Two, Organization of City Agencies 2005, the text of which is attached hereto and incorporated herein by reference.

§ 2. Nothing herein shall diminish or impair any level of discretion to exercise independent judgment in the public interest as may be vested in any city officer, board or commission under state or federal law.

§ 3. The grant of authority made by these ordinances to any officer, department, division, board or commission of the city, to perform any function, operate any program, provide any service or conduct any activity, shall be deemed to be the fullest grant of public authority as may be authorized by law and, further, recognizing that these ordinances may grant authority to act in the public interest to one or more officer, department, division, board or commission of the city, the grant of authority to any one such officer, department, etc., shall not be deemed to impair or exclude the actions of any other officer, department, division, board or commission similarly authorized.

§ 4. The repeal of the ordinances accomplished by section one hereof shall not apply impair any lawful action taken under authority of the ordinances previously in effect.

§ 5. Nothing herein shall repeal or impair any executive order, directive or administrative policy issued by the city manager.

§ 6. Pursuant to Article Ten of the Home Rule Charter, General Laws chapter 43, § 5, and similar provisions of any previous city charter, nothing herein, unless expressly stated herein, shall negate or relinquish any authority granted to any officer, department, division, board or commission of the city by any special act, general law, prior charter provision, or any other legal authority in so far as the same may have provided the basis for the establishment of any city department or agency which is reestablished and continued Under Article Six of the Home Rule Charter or by any provision of the Revised Ordinances of 1996.

**Effective Date**

§ 7. In accordance with Article Six of the city charter, this ordinance shall take effect on July 1, 2005.

Pursuant to Article VI, subsection (b) of its Home Rule Charter the following ordinance by Constructive Adoption has been adopted by the City Council and with an effective date of October 18, 2005.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

Revised Ordinances of the City of Worcester  
Part Two  
Organization of City Agencies  
2005

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- 

**§ 1. Establishment**

To assist the city manager in the performance of his or her duties and responsibilities under the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Executive Office of the City Manager" ("office").

**§ 2. Function**

It shall be the function of the office to assist the city manager in the exercise the authority and responsibilities vested in the city manager by the city charter or any other source of law, including the management and operation of the human resource and economic development functions of the city.

**§ 3. Head of the Executive Office**

(a) *Office Head.* The office shall be headed by an assistant city manager ("assistant city manager") who shall be designated by, and serve at the pleasure of, the city manager.

(b) *Duties & Responsibilities.* The assistant city manager shall be responsible for the performance of the functions of the office and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the office;

- (2) supervise the personnel in the office by establishing rules, policies and practices governing the operations of the office; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the office; evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3) act as the legislative liaison of the city by preparing the annual legislative agenda of the city and monitoring the progress of legislation approved by the city council;
- (4) keep the city manager informed of the activities and needs of the office and provide the city manager with information developed by the office which would have a material impact on the financial condition of the city;
- (5) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service within the office;
- (6) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (7) perform such other tasks and functions as may be requested by the city manager;
- (8) ensure that all actions of the office are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America;
- (9) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the office by the city manager and the city council;
- (10) determine the priorities of the office and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (11) prepare, monitor and manage the budget for the office, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (12) prepare, implement, evaluate and improve office operations, programs and projects in accordance with the goals and objectives established for the office by the city manager.

#### § 4. Authorized Positions

(a) *Table of Authorized Positions.* The office shall consist of the assistant city manager, a director of human resources and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the office shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

#### § 5. Organization of the Executive Office

(a) *Establishment of Divisions.* The office shall be organized into the following divisions for the following purposes:

*Administration Division* - to assist the city manager in the performance of the duties and responsibilities of city manager by providing administrative, communications, scheduling, research and support services and to assist the assistant city manager in the performance of the duties and responsibilities as the of the head of the office;

*Human Resources Division* - to administer the human resources activities of the city, including personnel administration, collective bargaining, affirmative action, group insurance, employee training and education, workers compensation and injured-on-duty;

*Cable Television Division* - to administer the cable television franchise agreement, disburse funds received by that agreement and operate the government access channel.

*Election Commission Division* - to provide administrative and operational support to the board of election commissioners established under article seven of the home rule charter.

*Workforce Development Division* - to administer the workforce development programs of the state and federal governments.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division of the office, the head of each division shall also have the duty and responsibility to:

- (1) assist the assistant city manager in the performance of the duties and responsibilities of the head of the office and perform such other duties as may be assigned or requested by the assistant city manager or otherwise prescribed by law;
- (2) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the assistant city manager;

- (3) supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level authorized by the assistant city manager up to and including suspensions for no more than five working days;
- (4) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5) keep the assistant city manager informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6) recommend to the assistant city manager implementing the rules, policies and practices governing the operations of the office as are approved by the assistant city manager; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the assistant city manager;
- (7) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the assistant city manager;
- (8) make recommendations to the assistant city manager on changing or initiating any policy, operation, program or service to the public;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the assistant city manager; and,
- (10) maintain any property assigned to the division by the assistant city manager.

(c) *Management of Multiple Divisions.* The assistant city manager, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the office.

## **§ 6. Administration Division**

(a) *Division Head.* The director of administration of the executive office of the city manager shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties and Responsibilities.* The director of administration of the executive office of the city manager shall:

- (1) provide administrative, communications, scheduling, research and support services to the city manager;

- (2) manage the processing of payroll, purchasing, contracts, and personnel documentation for the office;
- (3) assist the assistant city manager in the performance of his or her duties and responsibilities as the head of the office; and,
- (4) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 7. Human Resources Division**

(a) *Division Head.* The director of human resources shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties and Responsibilities.* The director of human resources shall:

- (1) act as the personnel administrator under authority delegated to the city by the agreement dated between the city and the department of personnel administration of the commonwealth;
- (2) plan, administer and direct all phases of the personnel plan, including wage and salary administration, position classification, sick and vacation leave, accident prevention and safety programs, physical examination program, personnel transactions and record keeping in accordance with the applicable rules and regulations, ordinances and statutes;
- (3) conduct collective bargaining on behalf of the city manager;
- (4) review and advise the chief financial officer on all departmental requests for personnel and determine before any employee shall be hired, reinstated, promoted or transferred that:
  - (A) there exists a vacant position in the table of authorized positions for such employee;
  - (B) the proposed salary for such employee is in accordance with the salary ordinance;
  - (C) there is compliance with applicable laws, including the civil service laws, rules and regulations; and,
  - (D) the city manager has approved such employment.
- (5) develop and revise personnel policies and practices and recommend same to the city manager;
- (6) advise and inform city department heads, officials and employees, and other interested parties, relative to all aspects of the human resources programs and activities;
- (7) administer the grievance procedure for employees
- (8) administer the disciplinary system of the city at all levels below the city manager or other appointing authority;
- (9) administer the personal property damage fund;
- (10) train and develop city employees;

- (11) serve as the city manager's advisor on equal opportunity matters in conjunction with the city's Human Rights Commission;
- (12) implement the policy of equal employment opportunities contained in the city affirmative action plan;
- (13) receive, review and make recommendations to the city manager on affirmative action programs, goals, objectives and timetables;
- (14) manage the activities of the city physician;
- (15) administer, review, monitor, evaluate and investigate workers' compensation claims (G.L. chapter one hundred and fifty-two) filed by city employees;
- (16) administer, review, monitor, evaluate and investigate injured-on-duty claims (G.L. chapter forty-one, section one hundred eleven F) filed by city employees;

- (17) administer the city's light duty programs;
- (18) comply with all reporting requirements of the Division of Industrial Accidents and make appropriate presentations to that division;
- (19) review all applications for disability retirements;
- (20) request the city solicitor to provide legal representation in all cases where the law requires the city to be represented by an attorney and inform the assistant city manager in all other cases where the director of human resources believes the assistance of the city solicitor would be advisable;
- (21) monitor and evaluate the city's personnel hiring employment patterns and practices; contract compliance efforts; fair housing policies and programs; permanent jobs; program benefits; and, program accessibility for the disabled covered under § 504 of the Rehabilitation Act;
- (22) collect and analyze data relative to equal employment opportunity for city departments and local offices; compliance of contract funded in part or in whole by city funds; fair housing; permanent jobs; program benefits; and, § 504 requirements with respect to employment in all city departments and offices;
- (23) provide equal opportunity technical assistance to city department heads;
- (24) administer the affairs of the affirmative action advisory committee established under these ordinances, attend all of its meetings, summarize comments made and policy suggestions decided upon, and submit quarterly reports to the Massachusetts Commission Against Discrimination;
- (25) serve as the city manager's coordinator on § 504 of the Rehabilitation Act of 1973;
- (26) administer the group health and life insurance programs by:
  - (A)authorizing and preparing all payments of premiums and cost reimbursement to the city's insurance carriers and computing the shares due from the employees' account and the city's account and coordinating matters involving payroll deductions and cash payments with the city treasurer;
  - (B)processing and approving all changes to existing group memberships and maintaining records of such members
  - (C)administering policies and procedures related to the delivery of group health insurance benefits;
  - (D)resolving problems of group membership and coverage which may be encountered by city subscribers and processing any necessary forms to correct problems;
  - (E)providing clear and comprehensive information to employees, retirees and departments concerning their benefits and options and advising employees and retirees on matters related to group insurance;

- (F) propose, research, evaluate and implement programs and systems concerning cost control and containment in the areas of group insurance, worker's compensation and injured on duty;
  - (G) review contract and proposals from insurance carriers and to provide recommendations to the city manager regarding rates and terms of contracts; and,
  - (H) research and envelope alternate programs of health care delivery and financing for city employees and retirees including researching and preparing legislative reform recommendations regarding state mandated programs and provisions concerning group insurance benefits.
- (27) perform the duties and responsibilities described in section 5(b)(1-10) above.

#### **§ 8. Affirmative Action Advisory Committee**

(a) *Establishment of the Affirmative Action Advisory Committee.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Affirmative Action Advisory Committee" ("committee").

(b) *Membership.* The committee shall be comprised of nine members appointed by the city manager for terms of three years. The terms shall be staggered such that three terms shall expire on December 31st of each year. Nominations will be considered from organizations concerned with issues of equal opportunity in employment, housing and contract compliance, minority business enterprise, program benefits, permanent jobs and handicapped accessibility.

(c) *Duties & Responsibilities.* The committee shall:

- (1) provide the city manager annually with a report on the implementation and attainment of the goals established by the fair housing, equal employment and contract compliance plans of the city;
- (2) advise the city manager annually of its recommendations on establishing new affirmative action, equal opportunity and inclusionary programs and practices or revising such existing programs;
- (3) perform such other related duties as required by the city affirmative action program.

#### **§ 9. Cable Television Division**

(a) *Division Head.* The cable administrator shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties and Responsibilities.* The cable administrator shall:

- (1) administer the cable television franchise agreement and monitor the activities of the cable franchise operator;
- (2) after consultation with the cable television advisory committee, make recommendations annually to the director as to the disbursement the funds received under the cable franchise agreement among the public, educational and government channel operations;
- (3) coordinate as necessary with the director of technical services to ensure that any institutional network provided under any cable franchise agreement operates properly and meets the technical requirements of the city for the internal transmission of data among city offices; and,
- (4) administer and keep the records of the cable television advisory committee.

**§ 10. Cable Television Advisory Committee**

(a) *Establishment of the Cable Television Advisory Committee.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Cable Television Advisory Committee" ("committee").

(b) *Membership.* The committee shall consist of seven persons appointed by the city manager for three year terms. The terms shall be staggered such that no more than two terms shall expire on December thirty-first of any year. The city manager shall designate from the membership of the committee a chair and vice-chair.

(c) *Duties & Responsibilities.* The committee shall:

- (1) advise and assist the city manager in the performance of the duties and responsibilities vested in the city manager by law as the licensing authority for cable television franchises in the city;
- (2) provide advice concerning public, governmental, educational, and other access programming on cable television;
- (3) meet periodically with the licensee, concerning matters of interest between the licensee, the public, the city manager as issuing authority, and the city;
- (4) report to the city manager regarding compliance by the licensee with the terms and conditions of the license, and to provide advice concerning the same;
- (5) render advice and suggestions concerning local, educational and governmental origination programming;
- (6) supervise the licensee's manner of responding to, and of resolving, complaints by members of the public;
- (7) respond to inquiries by members of the public regarding cable television matters; and,

- (8) provide the city manager an annual report stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the cable television matters under its jurisdiction.

#### **§ 11. Election Commission Division**

(a) *Division Head.* The executive director of the election commission shall head the division, which shall consist of the executive director and such other personnel as shall be assigned by the assistant city manager.

(b) *Duties and Responsibilities.* The executive director shall:

- (1) provide administrative and operational support to the board of election commissioners established under article seven of the home rule charter;
- (2) administer and keep the records of the board of election commissioners;
- (3) coordinate the services required of other city departments for the conduct of any election; and,
- (4) perform the duties and responsibilities described in section 5(b)(1-10) above.

#### **§ 12. Worcester Regional Airport Commission**

(a) *Establishment.* Under authority of the General Laws, chapter ninety, section fifty-one D, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Worcester Regional Airport Commission" ("commission").

(b) *Membership.* The commission shall consist of seven members appointed by the city manager for three year terms. At least one member shall have experience in aeronautics. The terms shall expire on May 31st of each year and shall be staggered such that two terms shall expire each year for two years and three terms shall expire every third year.

(c) *Duties & Responsibilities.* The commission shall:

- (1) have care, custody and control of the aviation facilities of the city known as Worcester Regional Airport at James D. O'Brien Field;
- (2) provide general administration and supervision over the activities of the Massachusetts Port Authority as the contractual operator of the airport;
- (3) promulgate rules and regulations for the use of the airport under the authority of chapter ninety, section fifty-one J of the General Laws;
- (4) perform all duties prescribed for the commission by chapter ninety, sections fifty-one D through fifty-one N of the General Law;

- (5) seek the approval of the Massachusetts Aeronautics Commission whenever necessary or advisable; and,
- (6) perform such other duties as may be prescribed by law.

(d) *Executive Officer.* The city manager shall appoint an executive officer of the commission who shall be qualified by general management experience and aeronautical knowledge and shall serve at the pleasure of the city manager. The executive officer shall administer the affairs of the commission and be the clerk of the commission and shall, under the direction of the commission, supervise, under the auspices of the airport operating agreement with the Massachusetts Port Authority, such personnel at the airport as the city council, with the advice of the city manager, shall from time to time authorize.

### **§ 13. Cultural Commission**

(a) *Establishment of Cultural Commission.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Cultural Commission" ("commission").

(b) *Membership.* The commission shall consist of nine members who shall be appointed by the city manager for a term of three years. The terms shall be staggered such that three terms expire on December thirty-first of each year. The city manager shall from time to time designate one of the members of the commission its chair.

- (c) *Duties & Responsibilities.* The commission shall:
- (1) promote the cultural affairs of the city;
  - (2) conduct studies and research and publish reports on cultural activities;
  - (3) cooperate with federal and state cultural agencies;
  - (4) advise municipal agencies of cultural matters;
  - (5) allocate any funds received by the commission for cultural projects, programs or activities in accordance with law; and,
  - (6) perform such other duties as may be prescribed by law.

### **§ 14. Workforce Development Division**

(a) *Division Head.* The director of workforce development shall head the division and shall have the assistance of such personnel as shall be assigned by the assistant city manager. Unless otherwise required by law, the director shall be appointed by and serve at the pleasure of the city manager.

(b) *Duties & Responsibilities.* The director of workforce development shall:

- (1) administer and manage the programs and activities of the division under the general superintendence of the assistant city manager;
- (2) administer the Workforce Investment Act and other federal, state or municipal workforce development programs for the service delivery area which includes the city, such administration shall include: planning; contract development and negotiation; monitoring and evaluation; management information system maintenance; and program and fiscal management;
- (3) exercise such authority as may be provided by the Workforce Investment Act or any federal or state law regarding employment, education and training programs;
- (4) direct and control the staff of the office;
- (5) provide the staff assistance required by the Central Massachusetts Regional Employment Board;
- (6) review and analyze existing and proposed employment, education and training programs and projects;
- (7) provide advice and counsel to city agencies on employment, education and training planning matters;
- (8) coordinate employment and training programs;
- (9) keep the city manager advised on employment matters, including the Worcester area job market, existing proposed programs, federal and state legislation on employment, and employment trends;
- (10) prepare and keep current an inventory of employment and training programs in Worcester;
- (11) monitor and evaluate the effectiveness of existing employment and training programs in Worcester;
- (12) act as the primary contact between the U.S. Department of Labor and the commonwealth; and
- (13) perform the duties and responsibilities described in section 5(b)(1-10) above.

**Article 2. Office of Economic Development**

- § 1. Establishment
  - § 2. Function
  - § 3. Head of the Office
  - § 4. Authorized Positions
  - § 5. Organization of the Office
  - § 6. Administration Division
  - § 7. Economic Development Division
  - § 8. Neighborhoods & Housing Division
  - § 9. Planning and Regulatory Services Division
  - §10. Planning Board
  - §11. Zoning Board of Appeals
  - §12. Historical Commission
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Office of Economic Development").

**§ 2. Function**

It shall be the function of the office to manage and operate the economic development, neighborhood development, housing development, marketing and planning and regulatory services functions of the city.

**§ 3. Head of the Office**

(a) *Office Head.* The office shall be headed by a commissioner of economic & neighborhood development ("commissioner") who shall be designated by, and serve at the pleasure of, the city manager.

(b) *Duties & Responsibilities.* The commissioner shall be responsible for the performance of the functions of the office and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the office;
- (2) supervise the personnel in the office by establishing rules, policies and practices governing the operations of the office; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the office; evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3) act as the legislative liaison of the city by preparing the annual legislative agenda of the city and monitoring the progress of legislation approved by the city council;

- (4) keep the city manager informed of the activities and needs of the office and provide the city manager with information developed by the office which would have a material impact on the financial condition of the city;
- (5) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service within the office;
- (6) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (7) perform such other tasks and functions as may be requested by the city manager;
- (8) ensure that all actions of the office are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America;
- (9) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the office by the city manager and the city council;
- (10) determine the priorities of the office and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (11) prepare, monitor and manage the budget for the office, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (12) prepare, implement, evaluate and improve office operations, programs and projects in accordance with the goals and objectives established for the office by the city manager.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The office shall consist of the commissioner and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the office shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

**§ 5. Organization of the Office**

(a) Establishment of Divisions. The office shall be organized into the following divisions for the following purposes:

*Administration Division* - to assist the commissioner in the performance of the duties and responsibilities of city manager by providing administrative, communications, scheduling, research and support services and to assist the commissioner in the performance of the duties and responsibilities as the of the head of the office;

*Economic Development Division* - to administer the economic development agenda and programs of the city; to promote, develop and expand investment and employment in the city; and, to secure the commitment of private capital into new or existing businesses in the city;

*Neighborhoods & Housing Division* - to develop and administer programs to improve the quality of life in the neighborhoods of the city, including the policies of the city on housing and homelessness;

*Brownfields Remediation Division* - to administer and coordinate all federal, state and local programs involving the preparation of property for real estate investments and developments through the remediation or removal of contaminated buildings, soils or substances;

*Marketing Division* - to develop, manage, implement and promote a city marketing plan by which those outside of Worcester find Worcester a positive, attractive and economical, diverse and tolerant place to live, work and visit; and,

*Planning & Regulatory Services Division* - to provide all city departments with master planning, neighborhood planning and project planning and analysis and to administer, advise and assist the planning board, zoning board of appeals and historical commission in the performance of their public responsibilities.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division of the office, the head of each division shall also have the duty and responsibility to:

- (1) assist the commissioner in the performance of the duties and responsibilities of the head of the office and perform such other duties as may be assigned or requested by the commissioner or otherwise prescribed by law;
- (2) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the commissioner;

- (3) supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level authorized by the commissioner up to and including suspensions for no more than five working days;
- (4) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5) keep the commissioner informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6) recommend to the commissioner implementing the rules, policies and practices governing the operations of the office as are approved by the commissioner; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the commissioner;
- (7) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the commissioner;
- (8) make recommendations to the commissioner on changing or initiating any policy, operation, program or service to the public;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the commissioner ; and,
- (10) maintain any property assigned to the division by the commissioner.

(c) *Management of Multiple Divisions.* The commissioner, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the office.

## **§ 6. Administration Division**

(a) *Division Head.* The commissioner shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner .

(b) *Duties and Responsibilities.* The commissioner shall:

- (1) provide administrative, communications, scheduling, research and support services to the commissioner;
- (2) manage the processing of payroll, purchasing, contracts, and personnel documentation for the office;

- (3) assist the commissioner in the performance of his or her duties and responsibilities as the head of the office; and,
- (4) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 7. Economic Development Division**

(a) *Division Head.* The economic development division shall be headed and staffed by such personnel as shall be assigned by the commissioner .

(b) *Duties & Responsibilities.* The division head shall:

- (1)attract the investment of private capital into new or existing businesses so as to expand the tax base and employment levels of the city;
- (2)administer the business and economic development laws and programs of the state and federal governments;
- (3)administer any and all contracts entered into by the city for business or economic development purposes;
- (4)develop and administer the environmental remediation programs of the city;
- (5)assist private property owners seeking to remediate environmental contamination on their property by providing information, assistance with filing grant applications and, where appropriate, assistance in the form of grants of city funds or funds administered by the city;
- (6)administer the performance of environmental testing and remediation activities on city properties for all city departments and agencies, including the Worcester Redevelopment Authority, as requested by the commissioner;
- (7)develop and administer the marketing program of the city and to promote Worcester as a place for conventions, tourism and travel;
- (8)administer the executive functions of the Worcester Redevelopment Authority in accordance with the directives of the city manager and the by-laws of that agency; and,
- (9)perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 8. Neighborhoods & Housing Division**

(a) *Division Head.* The director of neighborhood development shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner .

(b) *Duties & Responsibilities.* The director of neighborhood development shall:

- (1) administer the community development block grant program in accordance with the entitlements and requirements of the Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq., as amended, and the regulations adopted under authority thereof at 24 C.F.R. 570. (see, 24 C.F.R. 507.206);
- (2) administer state and federal grant programs which provide home ownership and housing opportunities and assistance for persons of low and moderate income;
- (3) develop policy recommendations on housing and homelessness and administer such policies as directed by the commissioner ;
- (4) ensure that residents enjoy the full advantage of neighborhood programs involving community policing, local law enforcement, neighborhood alert centers, neighborhood grime watches, community health, targeted cities initiatives, elder services and basic family preservation services;
- (5) attend various neighborhood and community group meetings as directed by the commissioner ;
- (6) perform planning, urban environmental design and policy-planning-management-capacity building activities under the community development block grant program (see, 24 C.F.R. 507.205) to the extent those activities are consistent with the housing functions of the division;
- (7) process applications for grants from federal, state and private sources to be expended for housing and related needs by the department or by other appropriate city agencies for the public purposes for which those agencies have been established and organized under law; and,
- (8) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Grants and Program Activities.* When directed by the city manager, the division shall be authorized to monitor the implementation of any grant received and, in so doing to charge the grant proceeds with any administration fee authorized by law. The division shall not be the recipient of the proceeds of any grant awarded through the performance of its duty to process applications for grants from federal, state and private sources unless such grant provides funds for a programmatic activity under the responsibility of the office and the expenditure of such grant proceeds is approved by the city manager.

## **§ 9. Planning and Regulatory Services Division**

(a) *Division Head.* The director of planning and regulatory services ("director") shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director shall:

- (1) provide the city manager and such other officers, employees, boards and commissions of the city as directed by the city manager or otherwise by law, with advice on planning and land use patterns in the city by:
  - (i) performing the planning, urban environmental design and policy-planning-management-capacity building activities prescribed in the community development block grant program (see, 24 C.F.R. 507.205) to the extent those activities are consistent with the land use planning and economic development functions of the office;
  - (ii) maintaining the official map of the city in accordance with the laws of the commonwealth; and,
  - (iii) maintaining an accurate copy of the zoning map in accordance with the zoning ordinance;
- (2) provide the commissioner with recommendations on useful changes to the official map of the city or the zoning map or zoning ordinance of the city;
- (3) administer the affairs of the perform any and all functions as may be lawfully delegated by any board or commission of the city to the director of planning and regulatory services; and,
- (4) serve as the clerk and keeper of the records of the planning board, zoning board of appeals and historic commission; and,
- (5) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Delegation of Duties to the City Planner.* The director may delegate any duty, responsibility or authority vested in that position by these ordinances, or any other law, to the city planner.

(d) *Planning & Urban Environmental Design Activities.* In performing the planning, urban environmental design and policy-planning-management-capacity building activities under the community development block grant program (see, 24 C.F.R. 507.205), the director may gather data, conduct studies and analysis and otherwise prepare the following plans: comprehensive plans; community development plans; and, functional plans in areas such as economic development, land use and urban environmental design, housing, open space and recreation, energy use and conservation, floodplain and wetlands management, transportation, utilities, historic preservation.

(e) *Official Map.* The official map of the city shall contain only those public ways, private ways and parks as authorized by section 81E of chapter 41 of the General Laws. The director shall keep a true and accurate copy of the official map and is hereby authorized to certify as true copies and issue the official map of the city or any portion thereof. The director shall revise the official map with lines or notations showing proposed, new, altered, relocated or discontinued public ways and new, altered or discontinued boundaries of parks and playgrounds, as may from time to time result from any action of the city council or otherwise by operation of law. The director, either directly or through subordinates, shall cause all changes or additions to the official map to be recorded in the Worcester District

Registry of Deeds and filed with the city clerk and the state agency designated by statute to receive said filings.

(f) *Zoning Map*. The director shall maintain a true and accurate copy of the zoning map of the city, as the same may be amended from time to time by action of the city council, and shall, either directly or through subordinates, certify as true copies and issue the zoning map of the city or any portion thereof. The director shall revise the zoning map to show changes made by any amendments to the zoning ordinance adopted by the city council or otherwise by operation of law. The director, either directly or through subordinates, shall cause all amendments to the zoning map to be recorded in the Worcester District Registry of Deeds and filed with the city clerk.

#### **§ 10. Planning Board**

(a) *Establishment of the Planning Board*. Under authority of General Laws, chapter forty-one, section eighty-one A, and Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a regulatory board of the city to be known as the "Planning Board".

(b) *Duties & Responsibilities*. It shall be the duty and responsibility of the planning board to exercise the authority granted to it the subdivision control law, and any other applicable general or special law, and the city wetlands ordinance, and any other applicable city ordinance.

(c) *Membership*. The planning board shall consist of five members appointed by the city manager for a term of five years such that one term shall expire on May thirty-first of each year.

#### **§ 11. Zoning Board of Appeals**

(a) *Establishment of the Zoning Board of Appeals*. Under authority of Article Six of the Home Rule Charter and General Laws chapter forty A, section twelve, there is hereby established under the jurisdiction of the city manager a regulatory board of the city to be known as the "Zoning Board of Appeals" ("zoning board").

(b) *Membership*. The zoning board shall consist of five members appointed by the city manager for terms of five years. The terms of such members shall be staggered such that one term shall expire on December thirty-first of each year. The members so appointed shall be designated regular members at the time of their appointment.

(c) *Associate Members*. The city manager shall also appoint two individuals to serve as associate members of the zoning board. The terms of associate members shall be five years and shall expire on December thirty-first. The associate members terms shall be staggered such that the term of the second associate member shall expire on the December thirty-first two years after the expiration of the term of the first associate member.

(d) *Duties & Responsibilities*. The zoning board shall:

- (1) hear and decide land use matters properly brought before it under the zoning ordinance of the zoning act, G.L. chapter forty A;

- (2) carry-out the duties and responsibilities vested in the zoning board by the city zoning ordinance;
- (3) exercise the jurisdiction provided by section eighty-one Z of chapter forty-one of the General Laws;
- (4) adopt rules not inconsistent with the zoning ordinance for the conduct of its business and to file a copy of its rules, together with any amendments as they are adopted, with the city clerk;
- (5) elect annually a chair from one of its regular members; and,
- (6) perform such other duties as may be prescribed by law.

## **§ 12. Historical Commission**

(a) *Establishment of the Historical Commission.* Under authority of General Laws, chapter forty C, sections four and fourteen, and chapter forty, section eight D, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Historical Commission" ("commission").

(b) *Establishment of Massachusetts Avenue & Montvale Historic Districts.* Under authority of General Laws, chapter forty C, section three, there are hereby established historic districts to be known as the "Massachusetts Avenue Historic District" and the "Montvale Historic District", both being shown on maps bearing their respective titles and on file with the city clerk and made a part hereof.

(c) *Membership.* The commission shall consist of six regular members and two alternates appointed for terms of three years by the city manager in accordance with the requirements of the city charter and the provisions of this section. The terms shall be staggered such that two terms of regular members shall expire every December thirty-first. The terms of alternate members shall be staggered such that the terms shall expire on December thirty-first on successive years and none shall expire every third year. One member shall be a resident of the Massachusetts Avenue Historic District and one member shall be a resident of the Montvale Historic District. All members and alternates shall have demonstrated a special interest, competence or knowledge in historic preservation. To the extent available in the charter appointment districts, members of the commission shall be professionals in the disciplines of architecture, history, architectural history, prehistoric archaeology, historic archaeology, urban planning, American studies, American civilization, cultural geography and cultural anthropology. In case of absence, inability to act or unwillingness to act because of self-interest on the part of any member of the commission, his or her place shall be taken by an alternate member designated by the chair.

(d) *Duties & Responsibilities.* To preserve, promote and develop historic assets of the city in accordance with law, the commission shall:

- (1) administer the Massachusetts Avenue Historic District and the Montvale Historic District, and any additional historic districts lawfully established, consistent with General Laws;

- (2) issue certificates of appropriateness, certificates of nonapplicability, and certificates of hardship with respect to construction or alteration of buildings and structures within the historic district when such construction or alteration affects exterior architectural features. Such certificates shall be issued as prescribed in the General Laws, chapter forty C, section six;
- (3) consider factors as prescribed in General Laws, chapter forty C, section seven, in passing upon matters before it;
- (4) issue such certificates, make such recommendations, keep such records and have such powers, functions and duties as are prescribed in General Laws, chapter forty C, section ten, except that officers and employees necessary for the proper administration of the commission shall be appointed and removed by the city manager in accordance with the city charter; and all gifts shall be subject to approval of the city manager and city council;
- (5) call and conduct meetings and to hold such public hearings as are prescribed in General Laws, chapter forty C, section eleven;
- (6) conduct research for places of historic value, to coordinate the activities of unofficial bodies organized for similar purposes, to advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it deems necessary for its work, and to make such recommendations as are described in General laws, chapter forty C, section eight D;
- (7) propose from time to time to the city manager as it deems appropriate, the establishment in accordance with the provisions of this Article and the General Laws, chapter forty C, section three, of additional historic districts and changes in historic districts;
- (8) determine an appropriate system of markers for selected historic sites and buildings not already sufficiently marked, to arrange for preparation and installation of such markers, and to arrange for the care of historic markers;
- (9) advise the redevelopment authority, planning board and any other city department or agency in matters involving historic sites and buildings;
- (10) cooperate with and enlist assistance from the National Park Service, the National Trust of Historic Preservation, and other agencies, public and private, concerned with historic sites and buildings;
- (11) advise owners of historic buildings in Worcester on problems and solutions of preservation; and
- (12) perform such other duties as may be prescribed by law.

(e) *Advisory Board.* The commission may recommend to the city manager from time to time as needed, appointment of advisory committees of historians and persons experienced in architecture or other arts or in historic restoration or preservation to assist the commission.

(f) *Rules & Regulations.* The commission, under the authority of General Laws, chapter forty C, shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein, and may adopt and amend such rules and regulations not inconsistent with the provisions of chapter forty C and prescribe such forms as it shall deem desirable and necessary for the regulation of its affairs and the conduct of its business.

(g) *Maintenance & Repair.* Nothing in this section shall be construed to prevent the ordinary maintenance and repair of buildings, structures or grounds within the district nor prevent actions by duly authorized public officers as described in General Laws chapter forty C, section nine.

(i) *Appeals.* Any applicant aggrieved by a determination of the commission may file a written request with the commission for review by person or persons of competence and experience in such matters designated by the Central Massachusetts Regional Planning Commission as prescribed in the General Laws, chapter forty C, section twelve, and may further appeal such determination to the superior court as prescribed in the General Laws, chapter forty C, section twelve A.

**Article 3. Department of Administration & Finance**

- § 1. Establishment
  - § 2. Function
  - § 3. Head of Department
  - § 4. Authorized Positions
  - § 5. Organization of Department
  - § 6. Assessing Division
  - § 7. Budget Office Division
  - § 8. Purchasing Division
  - § 9. Technical Services Division
  - §10. Treasury and Collections Division
  - §11. Trust Funds Commission
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Administration & Finance" ("department").

**§ 2. Function**

It shall be the function of the department to direct and coordinate all matters relating to the funds and finances of the city, excepting those under the legal auspices of the city auditor; said functions to include the preparation and management of the city budget, the assessment and collection of all city taxes, excises, betterments, assessments, fees, fines and penalties, the award of contracts for the acquisition of goods, supplies, services and property, the application for grants from any source and the management of the electronic information communications and processing systems.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the chief financial officer of the city who shall be appointed by, and serve at the pleasure of, the city manager.

(b) *Duties & Responsibilities.* The chief financial officer shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department and its divisions;

- (2) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;
- (4) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (5) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (6) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (7) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America;
- (8) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council;
- (9) determine the priorities of the department and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (10) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (11) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the chief financial officer, city assessor, city treasurer and collector, purchasing agent, chief information officer, director of grants acquisitions and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

#### **§ 5. Organization of Department**

(a) *Establishment of Divisions.* The department shall be organized into the following divisions for the following purposes:

*Assessing Division* - to provide tax assessment services for the city;

*Budget Office Division* - to prepare the city operating and capital budgets, ensure that all expenditures conform such budgets, to provide estimates of the cost of new programs or policy changes and to make projections concerning the financial health of the city and to assist the director in the performance of duties and responsibilities as the head of the department and to oversee the preparation and filing of applications for grants funds for all departments of the city;

*Purchasing Division* - to make the purchases for all departments, boards, commissions and agencies of the city, including the school department;

*Technical Services Division* - to provide information management and support services to all city agencies including, but not limited to, the planning, analysis, development and support of information systems, including a geographic information system, for all agencies of the city, including the school department as assigned;

*Treasury & Collections Division* - to receive, collect, manage and disburse all funds of the city in accordance with law.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division shall also have the duty and responsibility to:

- (1) assist the chief financial officer in the performance of the duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the chief financial officer or otherwise prescribed by law;

- (2) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, director of administration & finance, the city auditor or the chief financial officer;
- (3) supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the director up to and including suspensions for no more than five working days;
- (4) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5) keep the chief financial officer informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6) implement the rules, policies and practices governing the operations of the department as are approved by the chief financial officer; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the chief financial officer;
- (7) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the chief financial officer;
- (8) make recommendations to the chief financial officer on changing or initiating any policy, operation, program or service to the public;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the chief financial officer; and,
- (10) maintain any property assigned to the division by the chief financial officer.

(c) *Management of Multiple Divisions.* The chief financial officer, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the department.

## **§ 6. Assessing Division**

(a) *Division Head.* The city assessor shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) Duties and Responsibilities. The city assessor shall:

- (1) make an assessment of all the taxable properties in the city and place the list of taxes, together with itemized lists of real estate in duplicate, ready for mailing, with the warrant for the collection of same, in the hands of the city treasurer within thirty days of determining the tax rate in each year and on or before the first day of every ensuing month lists of all additional or supplementary assessments made during the preceding month, together with warrant for their collection;
- (2) prepare lists of the amounts taxes or abatements of taxes, including notations of the amounts thereof which have not been included in any previous statement, and provide copies of those lists to the city treasurer and city auditor
- (3) perform all duties prescribed by the general laws, including chapter fifty-nine, and any special act applicable to the city;
- (4) have care and custody of all books, papers and documents belonging to the division and shall deliver the same to his or her successor in office;
- (5) keep records of all official transactions; and,
- (6) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Notices of Exemption or Abatement Eligibility.* The city assessor shall, at the time he commits the tax list to the city treasurer for collection, include therewith a notice to taxpayers containing information in regard to eligibility and requirements for a tax exemption or tax abatement, as follows:

- (1) Such notices shall be made a part of or otherwise included with each tax notice and shall inform taxpayers that they may be eligible to receive a tax exemption or tax abatement if they fall within certain categories as are described within G.L. chapter 59, § 5; that in addition thereto, the said notice shall contain a brief statement that the subject categories as are described by G.L. chapter 59, § 5 include, but are not limited to, the following examples:
  - (A) widows or minor children of a deceased father;
  - (B) veterans with disability rating of ten per cent or more or who have suffered certain injuries or been awarded certain medals for distinguished service; that wives, unmarried widows and surviving parents of certain veterans may also be eligible for an abatement;
  - (C) blind persons;
  - (D) persons over seventy years of age;
  - (E) a spouse of a police officer or firefighter killed in the line of duty;
  - (F) minor children of police officer or firefighter killed in the line of duty if the mother or father of the said children is also deceased;

- (G) persons who are not able to pay taxes due, because of age, infirmity and poverty;
  - (H) certain persons, age sixty-five or over, may be eligible to postpone payment of all or a portion of real estate taxes, when a tax deferral and recovery agreement has been entered into with the city assessor;
  - (I) a person who believes that he has been assessed at more than his just proportion or that the property has been assessed in excess of its fair cash value.
- (2) Said notice in addition to these matters described within subsection shall include therein a brief statement informing taxpayers that applicants for exemption or abatement must meet certain statutory requirements; that such requirements may vary according to the particular exemption or abatement sought; that information concerning eligibility may be obtained from G.L. c. fifty-nine, section five, or by request to the city assessor. That the requirements may include, but are not limited to, the following examples:
- (A) residence and/or domicile within the commonwealth for certain time periods;
  - (B) financial resources within certain prescribed limits;
  - (C) age restrictions as to applicants for certain exemptions or abatements.
- (3) Said notice shall further include a brief statement informing taxpayers that applicants for exemption or abatement are required by law to make application on official forms; said notice shall also include the address and phone number of the office where such forms are available; that by law, such applications are required to be filed within certain time periods; that the specific time for filing applications for the various exemptions or abatements is printed on each tax bill or otherwise include with each tax bill and that further assistance in this regard is available from the city assessor.

## **§ 7. Budget Office Division**

(a) *Division Head.* The chief financial officer shall head the division and shall have the assistance of such other personnel as shall be assigned by the city manager.

(b) *Duties and Responsibilities.* The chief financial officer shall:

- (1) assist the city manager in the preparation, submission and explanation of the annual budget and the five year annual capital outlay program as required by Article 5 of the city charter and with submission and explanation thereof to the city council;

- (2) assist the city manager in the preparation, submission and explanation of any supplemental budget or transfer of appropriation as authorized by article five of the city charter;
- (3) review and approve for the approval of the city manager all purchase orders, requests for personnel and capital expenditure requests;
- (4) keep records of all budget entries and transactions and the activities of the division;
- (5) manage the processing of payroll, purchasing, contracts, and personnel documentation for the department; identify federal, state and private grant programs which could be employed to fund existing or new city operations;
- (6) advise city departments of the eligibility requirements and deadlines and the operational requirements and obligations involved in any grant;
- (7) advise the chief financial officer and the department or division for which the grant is sought of any financial obligations which would be placed upon the city by acceptance of any particular grant;
- (8) assist the department in obtaining the approval of the city manager and city council prior to the filing of any grant application; and,
- (9) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Grant Funded Activities.* Whenever a grant has been awarded from any source to further the performance of the duties and responsibilities described in section five hereof, the proceeds of all and any such grants shall be deposited in accounts within the office of the city manager which accounts shall, for financial management purposes, be under the control of the director. Whenever a grant provides funds for an activity which would be properly or ordinarily be performed by any other city agency regardless of the source of funding, that city agency shall be responsible for implementing the activities funded by the grant.

## **§ 8. Purchasing Division**

(a) *Division Head.* The purchasing agent shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The purchasing agent shall:

- (1) serve as the chief procurement officer of the city on all transactions unless the city manager has designated otherwise with regard to any particular contract or to any category or categories of contracts;

- (2) administer the provisions of the city charter and the public bidding laws in the award of all city contracts for the purchase of supplies or other personal property, the acquisition of services, the construction, reconstruction, alteration, remodeling or repair of any public work or public building, the purchase or sale of real property, the disposal of real, personal or tangible property, and the retention of design or engineering services, unless otherwise directed by the city manager with regard to any particular contract or to any category or categories of contracts;
- (3) initiate the proper contract award procedure upon the request of the head of any city department, including the school department;
- (4) award the contract, in the case of tie low bids, quality and delivery being equal, to a bidder having a place of manufacture or business in the city, or to a bidder who has already established a satisfactory experience with the city;
- (5) administer the execution of contracts by securing the signatures of the vendor or contractor, the head of the department originating the purchase or transaction, the budget officer or city auditor as the case may be, the city solicitor and the city manager in that order except in the case of public works or public buildings construction contracts where all city signatories shall execute the contract in the order described above prior to the contract being presented to the contractor for signature;
- (6) deliver an original of each city contract once fully executed to the city clerk and copies of the same to the city auditor and the department originating the purchase or other transaction;
- (7) review all invoices prior to payment as may be presented concerning the purchase of goods or supplies by any city department to determine whether the invoice accurately reflects the terms of the contract and that the quantity, quality and delivery of the goods or services complies with the contract;
- (8) keep current on market trends and conditions concerning goods and supplies frequently purchased by the city;
- (9) ascertain from any department such information as may be necessary or useful to supply goods and services to that department, including information necessary to schedule periodic deliveries of supplies or the performance of services; and,
- (10) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Emergency Procurement.* In the event of an emergency declared by the city manager, take any action as directed in said declaration or pursuant thereto by the city manager.

(d) *Promulgation of Rules & Allocations of Scarce Commodities.* The purchasing agent may, with the approval of the chief financial officer, promulgate rules of procedure governing the foregoing duties and responsibilities, the purchasing procedures to be followed by city agencies and the allocation of any commodity, including oil, gasoline, paper and road salt, which is in short supply due to extraordinary market conditions and, in such event, any department head aggrieved by any such allocation may appeal to the city manager for a final determination of the allocation of such commodities.

## **§ 9. Technical Services Division**

(a) Division Head. The chief information officer shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) Duties and Responsibilities. The chief information officer shall:

- (1) organize and implement a centralized information systems center as authorized by the city manager;
- (2) direct, organize, and implement the planning, development and production of information systems, including the integrated municipal information system and the geographic information system;
- (3) direct and control the data operations and personnel of the department;
- (4) coordinate through advice and counsel the data requirements of any other city agency;
- (5) advise the city agencies on information systems matters, including the review of proposed applications or equipment acquisitions;
- (6) provide support services to city agencies, in accordance with the priorities of the city manager;
- (7) maintain and safeguard data, city-wide network, information, programs and equipment of the department;
- (8) establish rules and regulations controlling the access and release of data, including, but not limited to, particular personnel information of municipal employees and other persons and arrest records or similar law enforcement data;
- (9) maintain the confidentiality of any information or data collected or processed by the division except as authorized by the user agency, the chief financial officer or the city manager; and,
- (10) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 10. Treasury and Collections Division**

(a) Division Head. The city treasurer and collector shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) Duties and Responsibilities. The city treasurer and collector shall:

- (1) perform all duties prescribed by chapter forty-one of the General Laws;
- (2) maintain an account of all receipts and disbursements for and on behalf of the city and to conform the same as nearly as may be possible with accounts kept by the city auditor;
- (3) have custody of, and keep a registry thereof, all official bonds, notes, scrip and other certificates of indebtedness, together with coupons issued by the city after they have been paid, except for the fidelity bonds of the city treasurer and any assistant treasurer, which shall be kept by the city auditor;
- (4) render to the city manager annually on or before September thirtieth a detailed statement of all receipts and disbursements for the previous fiscal year;
- (5) negotiate under the direction of the city manager all loans authorized by the city council;
- (6) collect and receive all money due to the city on all accounts and other demands against persons indebted to the city and disburse all sums owed by the city, except as otherwise provided by law or city ordinance;
- (7) collect and administer the laws regarding the payment of fines for parking violations and for civil and criminal violations of city ordinances enforced through the non-criminal disposition process;
- (8) keep and safeguard all books and records of the division;
- (9) deliver to his successor all books, papers, documents and property of the division;
- (10) act as treasurer and custodian of all trust funds of the city and all funds of the Worcester Retirement System;
- (11) administer the affairs of the trust funds commission established by these ordinances and perform all such duties as may lawfully be required by the commission; and,
- (12) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Receipt of Payments Other Than At The Treasury.* Departments, divisions, boards and commissions, when authorized in writing by the city manager, may process the receipt of payments for services they render and the receipts given by such departments at the time of any such payment shall be sufficient to establish the valid discharge of the debt due the city. Otherwise, only the receipt of the city treasurer shall be sufficient to establish the valid discharge of any debt due the city. Any departments, etc., so authorized, shall make returns of all such collections to the treasurer and render accounts of their collections to the city auditor. The treasurer shall determine the form, manner and time of all such returns and the city auditor shall determine likewise for all such accounting.

(d) *Payments Only Upon Appropriation.* No money shall be paid out of the city treasury by the treasurer except by appropriation order of the city council, or to satisfy final judgments against the city, unless the expenditures or the terms of the contract shall have been approved or certified by the chair of the board or by the officer heading the department or division authorized to incur the expenditure or make the contract or unless the same shall have been approved by and the warrant therefor shall have been drawn by the city manager. No other person shall pay any bill of any department or division.

(e) *Fidelity Bonds.* The treasurer, acting solely in his or her capacity as city treasurer, shall give a bond to the city in accordance with chapter forty-one, section thirty-five of the General Laws. The city treasurer, acting solely as collector of taxes, shall give a separate bond to the city acceptable to the commissioner of revenue.

## **§ 11. Trust Funds Commission**

(a) *Establishment of the Trust Funds Commission.* Under authority of General Laws, chapter forty-one, section forty-five, and Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Trust Funds Commission" ("commission").

(b) *Membership.* The commission shall consist of three commissioners who shall be appointed by the city manager for three year terms. The terms shall be staggered such that one term shall expire on January thirty-first each year.

(c) *Duties and Responsibilities.* The commission shall:

- (1) manage all trust funds given or bequeathed for the benefit of the city inhabitants thereof in accordance with the terms of each trust, unless the gift or bequest shall otherwise provide, including the "William A. Richardson Park Fund", the Jaques Fund and any other fund held by the city for the benefit of the former city hospital; provided, however, that any trust fund given or bequeathed to the city for the benefit of the Free Public Library, whether now existing or given in the future, shall be managed by the board of directors of the Free Public Library unless the trust should provide otherwise;

- (2) adopt regulations governing its affairs, which regulations shall provide that any investment decision made by the commission shall be effective only if approved by at least two of the trustees;
- (3) distribute the income in accordance with the terms of the respective trust;
- (4) have care, custody and control of all the remaining property, real, personal, mixed, which had been received, or shall hereafter be received, directly or indirectly by gift, bequest or otherwise, for the benefit of the former city hospital, except as otherwise provided by such gift, devise, or deed or otherwise;
- (5) have the full power and authority to negotiate and make sale of any real estate now held by the city for the use and benefit of the former city hospital, and all real estate which has been or may be hereafter granted, conveyed or devised to the city for the use benefit of the city hospital, unless conditions are connected with the conveyance, devise or gift inconsistent therewith, and all real estate which may at any time become the property of the city through any investments made by authority of this section, and for the time being not in use for hospital purposes, in such quantities, at such times, and upon such terms as they shall regard the most advantageous to the interest of all parties interested in the funds, provided that, any conveyance of real estate so sold shall be valid only by deed executed by the city manager and assented to by the commission;
- (6) invest from time to time all monies which shall hereafter be derived from the sale of real estate or personal property given, granted or bequeathed for the benefit of the city hospital, in the same securities and in the same manner provided by the statutes of the commonwealth for the management and investment of deposits in savings banks; provided, that no part of the money or property shall be invested in the bonds, scrip or other obligations of the city;
- (7) pay over to the city treasurer when appropriate all monies hereafter received as income from any property heretofore granted, bequeathed or conveyed, for the benefit of the former city hospital, whether as rents, interest, or otherwise, unless conditions connected with the bequest or gift is inconsistent therewith, after deducting such sums as may be expended by them in necessary repairs upon the property and such sums as may be otherwise necessarily expended by them in the performance of their duties, and the city treasurer's receipt therefor shall be a sufficient voucher for such payments;
- (8) seek the advice and representation of the city treasurer and city solicitor whenever it appears reasonable or necessary to obtain judicial approval for the use of any trust funds, including former city hospital funds, for other public purposes;

- (9) perform all duties prescribed by chapter forty-one, section forty-seven of the General Laws;
- (10) keep full records of its doings and of the investments showing in detail the sources of receipts and the items of expenditure;
- (11) make annual reports to the city manager of its doings and stating the condition of each trust fund under its care; and,
- (12) perform such other duties as may be prescribed under law.

(d) *Custodian of the Trust Funds.* The city treasurer shall be the custodian of all funds and securities of such trust funds and shall invest and reinvest them and monies therefrom as directed by the commission. The city treasurer shall collect the income earned by the trust funds and each month shall turn over such income to the city to be spent in the manner provided for by the terms of the gift or bequest upon the draft of the city manager, counter-signed by the city auditor, in the same manner as other monies are disbursed.

**Article 4. Department of Public Works and Parks**

- § 1. Establishment
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  - § 3. Head of Department
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  - §10. Civic Center Commission
  - §11. Conservation Commission
  - §12. Designer Selection Board
  - §13. Hope Cemetery Board
  - §14. Lincoln Square Memorial Board
  - §15. Memorial Auditorium Board of Trustees
  - §16. Off-Street Parking Board
  - §17. Parks & Recreation Commission
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Public Works and Parks " ("department").

**§ 2. Function**

It shall be the function of the department to manage and perform capital facility improvement projects and to provide city residents, businesses and visitors with fundamental environmental and transportation services in the form of clean water, the disposal and recycling of household goods and rubbish, effective sanitary and storm sewers and safe bridges, highways, streets and sidewalks.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the commissioner of public works and parks ("commissioner") who shall be appointed by, and shall serve at the pleasure of, the city manager.

(b) *Duties and Responsibilities.* The commissioner shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department and its divisions;

- (2) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;
- (4) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (5) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (6) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (7) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (8) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department, or any of its divisions, by the city manager and the city council;
- (9) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (10) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;
- (11) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager;
- (12) represent the city as a member of the Upper Blackstone Water Pollution Abatement District; and,
- (13) perform all duties prescribed by chapter two hundred ten of the acts of 1939, as amended, except as may be otherwise provided.

#### **§ 4. Authorized Positions**

(a) Table of Authorized Positions. The department shall consist of the commissioner and include an assistant commissioner of administration & finance, an assistant commissioner of operations, an assistant commissioner of engineering & architectural services, an assistant commissioner of parks, and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) Manner of Appointment. Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

#### **§ 5. Organization of Department**

(a) Establishment of Divisions. The department shall be organized into the following divisions for the following purposes:

*Administration & Finance Division* - to manage the finances of the department and to assist the commissioner in the performance of duties and responsibilities as the of the head of the department;

*Operations Division* - to operate and manage the fresh water supply and sanitary and storm sewer facilities and systems of the city; to provide sanitation and hazardous waste collection programs; to manage and maintain all highways, streets, sidewalks and bridges belonging to the city, including related snow removal and pavement marking operations; and, to manage central garage and other miscellaneous activities of the department.

*Engineering & Architectural Services Division* - to provide engineering services for streets, sidewalks, bridges, water and sewer programs, conservation commission and other permitting issues and for other city capital facility projects as directed; to develop and manage the regulations governing traffic and parking in the city and city-owned parking facilities and provide traffic planning analysis and recommendations.

*Parks Division* - to manage, maintain, develop and improve the parks, recreation and forestry facilities of the city and to operate and maintain Hope Cemetery as a facility for public and private internments.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division shall also have the duty and responsibility to:

- (1) assist the commissioner in the performance of duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the commissioner or otherwise prescribed by law;

- (2) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the commissioner;
- (3) supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the commissioner up to and including suspensions for no more than five working days;
- (4) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5) keep the commissioner informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6) recommend to the commissioner implementing the rules, policies and practices governing the operations of the department as are approved by the commissioner; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the commissioner;
- (7) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the commissioner;
- (8) make recommendations to the commissioner on changing or initiating any policy, operation, program or service to the public;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the commissioner; and,
- (10) maintain any property assigned to the division by the commissioner.

(c) *Management of Multiple Divisions.* The commissioner, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the department, said individual may be a division head with responsibility for one or more divisions or an assistant or deputy commissioner with responsibility more than one division head.

## **§ 6. Administration & Finance Division**

(a) *Division Head.* The assistant commissioner of administration & finance of the department shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The assistant commissioner of administration & finance of the department shall:

- (1) operate the customer service center, a central office for the processing of citizen service requests for city services of all types and from all departments, including services delivered during emergencies;
- (2) manage the processing of payroll, purchasing, contracts, and personnel documentation for the department;
- (3) manage and administer landfill and solid waste issues;
- (4) manage and administer correspondence and reporting to the city manager and other city departments and outside agencies;
- (5) assist the commissioner in the performance of his or her duties and responsibilities as the of the head of the department; and,
- (6) perform the duties and responsibilities listed in section 5(b)(1-10) above.

## **§ 7. Operations Division**

(a) *Division Head.* The assistant commissioner of operations shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities .* The assistant commissioner of operations shall:

- (1) manage, maintain, construct, repair and replace all reservoirs, dams, watershed protection interests, and filtration facilities of the city;
- (2) ensure that the water supplied by the city complies with all state and federal water quality standards;
- (3) construct, maintain, repair and replace city sanitary and storm sewers, drains, pump stations and sewage treatment facilities;
- (4) perform catch-basin cleaning, pumping station maintenance, inspection and diagnosis of the sewer systems, general infrastructure maintenance, easement maintenance and clearing and flood control, including street drainage;
- (5) ensure that the discharges from the sewer and storm drains of the city comply with all state and federal water quality standards;

- (6) represent the city as a member of the Upper Blackstone Water Pollution Abatement District; and,
- (7) collect, recycle and dispose of household waste products programs of the city
- (8) maintain and repair city vehicles;
- (9) construct, maintain, repair and replace city highways, bridges, streets and sidewalks, including street lighting;
- (10) manage and maintain all highways, streets, sidewalks and bridges belonging to the city, including all snow removal activities related thereto;
- (11) keep a separate record of the names of all streets which shall be accepted, laid out and established;
- (12) keep a record of all sidewalks that now are or hereafter may be laid out and established by the city council, including the width, height and grade of the same and setting boundaries and measurements thereof, with the date of such laying out;
- (13) administer the collection, recycling and disposal of household solid waste programs of the city, including the distribution and sale of approved trash disposal bags, recycling bins and the like;
- (14) implement, enforce and propose changes to the policies, practices, ordinances and laws governing the collection, recycling and disposal of household solid waste;
- (15) organize and operate bulk collection, household hazardous waste collection and educational programs;
- (16) have charge of all traffic control devices, signage and on-street parking control facilities and equipment;
- (17) maintain the parking ordinance schedules of the city;
- (18) enforce the parking ordinances of the city with the issuance of parking violation notices by civilian personnel;
- (19) maintain a traffic control plan for the city and make recommendations on any proposal which may affect such a plan;
- (20) serve as the clerk and otherwise administer the operations of the off-street parking board; and,
- (21) perform the duties and responsibilities listed in section 5(b)(1-10) above.

(c) *Pavement Markings.* The director of traffic engineering, with the approval of the commissioner, shall have authority to locate, place and designate on public highways, within the city, such pavement markings on highways as he or she shall deem necessary, proper and expedient, but in accordance with section two of chapter eighty-five of the General Laws, in addition to those markings that the city council shall from time to time ordain.

## § 8. Engineering & Architectural Services Division

(a) *Division Head.* The assistant commissioner of engineering & architectural services shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The assistant commissioner of engineering & architectural services shall:

- (1) provide engineering services, make all surveys, measurements, levels and estimates and keep all plans for all highways, streets, sidewalks, parks, recreation facilities, bridges, dams, the sewer systems, the watershed and water filtration and distribution systems, recycling and waste disposal facilities, hope cemetery and other engineering structures that may be under the care, custody and control of the department;
- (2) develop, implement, manage and conduct capital projects for any city facility under the care, custody and control of the commissioner and, when requested by the commissioner, for any other city facility, or any group thereof as determined by the city manager, including those now under the care, custody and control of the Worcester Redevelopment Authority, Worcester Regional Airport Commission, the Civic Center Commission, the Memorial Auditorium Trustees, the Lincoln Square Memorial Trustees; and, the Elder Affairs Commission (senior center);
- (3) administer the award and implementation of contracts concerning any capital project; provided, however, that in the case of any such contract involving property under the care, custody and control of any city officer, agency, board of commission, other than the department of capital facilities and environmental management, no such contract shall be presented for the approval of the commissioner and city manager unless the director of capital projects has received a written authorization from the chief financial officer that sufficient funds have been appropriated either to the department of capital facilities and environmental management or the department, agency, board or commission with care of the facility;
- (4) provide architectural design and construction management services on any city capital facility project, such services to include:
  - (A) the preparation of construction plans and specifications in compliance with all applicable building and engineering codes and engineering and architectural standards;
  - (B) the preparation and filing of applications for any and all permits and approvals necessary to implement and complete any capital facility project;
  - (C) the administration of the public bidding laws for the award of capital facility improvement contracts

- (D) the preparation of feasibility studies, master plans, building programs, engineering studies, environmental assessments, cost estimates, conceptual design and design development plans and the like; and,
- (E) construction management services as defined in chapter one hundred ninety-three of the acts of two thousand and four.
- (5) serve as the clerk and keeper of the records of the designer selection board;
- (6) maintain the parking ordinance schedules of the city;
- (7) enforce the parking ordinances of the city with the issuance of parking violation notices by civilian personnel;
- (8) maintain a traffic control plan for the city and make recommendations on any proposal which may affect such a plan;
- (9) serve as the clerk and otherwise administer the operations of the off-street parking board;
- (10) serve as the clerk and keeper of the records of the conservation commission; and,
- (11) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Consultation with Disabilities Commission.* At the earliest practical stage in any capital project, the assistant commissioner of operations, or his or her designee, shall review the plans for any such project with the commission of disability established by these ordinances to explain the compliance of the plans with architectural access regulations and codes and to ascertain whether any changes in such plans are feasible to improve building and facility access beyond that which said regulations and codes may require.

## **§ 9. Parks Division**

(a) *Division Head.* The assistant commissioner of parks shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The assistant commissioner of parks shall:

- (1) maintain and manage all of the city parks and playgrounds, including city hall and the common, together with such other properties and facilities as may be placed under the responsibility of the division;
- (2) issue, under general regulations adopted by the parks and recreation commission, permits and licenses for the use of the parks, recreation and other facilities under the care of the division;
- (3) inform the public about the parks and recreation programs and systems;

- (4) have charge of Green Hill Golf Course facility and operate it as an enterprise on behalf of the city;
- (5) maintain and manage Hope Cemetery;
- (6) supervise the conduct of internments;
- (7) apply funds deposited with the city treasurer for the preservation, care, improvement or embellishment of any public burial place in accordance with law; and,
- (8) administer and serve as the keeper of the records of the Parks & Recreation Commission and the Hope Cemetery Commission; and,
- (9) perform the duties and responsibilities listed in section 5(b)(1-10) above.

#### **§ 10. Civic Center Commission**

(a) *Establishment.* Under authority of chapter 216 of the Acts of 1976, as amended, and Article X, § 10-6(a)(2), of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Civic Center Commission" ("commission").

(b) *Membership.* The commission shall consist of five persons, residents of the city, who shall be appointed by the city manager with the approval of the city council. The members of the commission shall serve for terms of five years. The terms shall be staggered such that one term expires on October fourth of every year. The chair of the commission shall be designated by the city manager.

(c) *Duties & Responsibilities.* The board shall:

- (1) have care, custody and control of the arena facility known as "The Centrum In Worcester," the convention center facility adjacent thereto and such other facilities as the city council may from time to time place under the care, custody and control of the commission;
- (2) perform and exercise the authority granted by the duties prescribed in chapter 216 of the Acts of 1976; and,
- (3) adopt rules and regulations in accordance with law for the conduct of its affairs and the operation of any facility under its care, custody and control; and,
- (4) perform such other duties as may be prescribed by law.

#### **§ 11. Conservation Commission**

(a) *Establishment of Conservation Commission.* Under authority of General Laws chapter forty, section eight C, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a regulatory board of the city to be known as the "Conservation Commission".

(b) *Membership.* The conservation commission shall consist of seven members who shall be appointed by the city manager for a term of three years. The terms shall expire on September thirtieth of each year and shall be staggered such that two terms expire each year for two years and three terms shall expire every third year.

(c) *Duties & Responsibilities.* It shall be the duty and responsibility of the conservation commission to perform all duties prescribed by General Laws, chapter forty, section eight C; the city wetlands ordinance, and, all such other duties as may be prescribed by law.

## **§ 12. Designer Selection Board**

(a) *Establishment of the Designer Selection Board.* Under authority of Article Six of the Home Rule Charter and in compliance with General Laws chapter seven, section thirty-eight K, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Designer Selection Board" ("board").

(b) *Membership.* The board shall consist of five regular members and three alternate members designated by the city manager from existing regular employees of the city. The city manager shall from time to time select one member to be the chair.

(c) *Duties & Responsibilities.* The board shall have the duty and responsibility to carry-out the selection procedures adopted by executive order of the city manager relative to the award of design services contracts as required by G.L. chapter seven, section thirty-eight A and one-half and to perform such other duties and assignments as the city manager may request.

## **§ 13. Hope Cemetery Commission**

(a) *Establishment of Hope Cemetery Board.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Hope Cemetery Board" ("board").

(b) *Membership.* The Hope Cemetery Board shall consist of five members appointed by the city manager for three year terms. The terms shall be staggered such that two terms shall expire on December thirty-first for two successive years and one term shall expire on December thirty-first every third year.

(c) *Duties & Responsibilities.* It shall be the duty and responsibility of the board to advise and make recommendations to the city manager and the Commissioner of Parks on matters affecting Hope Cemetery, including the use of Cemetery land and the conduct of internments.

## **§ 14. Lincoln Square Memorial Board**

(a) *Establishment.* Under authority of General Laws chapter forty-one, section one hundred five, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive

board of the city to be known as the "Board of Trustees for the Lincoln Square Memorial" ("board").

(b) *Membership.* The board shall consist of five members appointed for three year terms by the city manager. The terms shall be staggered such that two terms shall expire on August thirty-first of two consecutive years and one term shall expire on August thirty-first of the following year.

(c) *Duties & Responsibilities.* The board shall have care, custody and control of the Lincoln Square Memorial for the men and women who served in the First World War for the United States of America and perform such other duties as may be prescribed by law.

#### **§ 15. Memorial Auditorium Board of Trustees**

(a) *Establishment.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Memorial Auditorium Board of Trustees" ("board").

(b) *Membership.* The board shall consist of five persons, residents of the city, who shall be appointed by the city manager for terms of five years staggered such that one term expires on November eleventh of every year. No more than three members of the board shall be veterans. The chair of the commission shall be designated by the city manager.

(c) *Duties & Responsibilities.* The board shall:

- (1) have care, custody and control of the Memorial Auditorium as a memorial to the inhabitants of the city who served in the armed forces during times of war;
- (2) perform and exercise the authority granted by chapter forty-one, section one-hundred and five, of the General Laws, or any such other duties as may be prescribed by law; and,
- (3) adopt rules and regulations in accordance with law for the conduct of its affairs and the operation of the Memorial Auditorium.

#### **§ 16. Off-Street Parking Board**

(a) *Establishment of the Off-Street Parking Board.* Under authority of chapter 365 of the Acts of 1955 and Article Ten, § 10-6(a)(3), of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Off-Street Parking Board" ("board").

(b) *Membership.* The board shall consist of five members appointed by the city manager for staggered terms of four years each. The terms shall be staggered such that one term shall expire every June thirtieth for four successive years and no term shall expire every fifth year. The city manager shall designate the chair of the board.

(c) *Duties & Responsibilities.* The board shall:

- (1) have care, custody and control of the off-street parking facilities of the city, which shall include surface parking lots (including meters), parking structures and parking garages;
- (2) set the fees for the use of off-street parking facilities at such rates that the revenue therefrom shall be adequate to cover the expenses of the city for off-street parking, as defined in chapter 365, Acts of 1955, as amended;
- (3) promulgate rules and regulations regarding the use and operation of the off-street parking facilities under its care, custody and control; and,
- (4) perform such other duties as may be prescribed by law.

(d) *Deposit of Receipts.* Unless otherwise provided by law, receipts from the use of off-street parking facility shall be collected and deposited with the city treasurer, who shall keep the same in a separate account known as the off-street parking fund to be expended in accordance with law.

**§ 17. Parks And Recreation Commission**

(a) *Establishment of the Parks & Recreation Commission.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Parks & Recreation Commission" ("commission").

(b) *Membership.* The commission shall consist of seven members appointed by the city manager for three year terms. The terms shall be staggered such that two terms shall expire on April thirtieth for two successive years and three terms shall expire on April thirtieth every third year. The commission shall perform the duties and exercise the authority prescribed by law; provided, that the commission shall have no authority over matters involving Hope Cemetery.

(c) *Duties & Responsibilities.* The commission shall:

- (1) have general superintendence over the public parks and playgrounds of the city, including the golf course at Green Hill;
- (2) promulgate rules and regulations governing the use of the parks, playgrounds and facilities under its general superintendence as such authority is granted by the General Laws chapter forty-five, section five;
- (3) make reports and recommendations to the commissioner concerning the acquisition of new parks and playgrounds; and,
- (4) perform such other duties as may be prescribed by law.

**Article 5. Public Safety Group**

- § 1. Police Department
  - § 2. Fire Department
  - § 3. Communications Department
  - § 4. License Commission
- 

**§ 1. Police Department**

(a) *Establishment.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Police Department" ("department").

(b) *Function.* It shall be the function of the department to provide law enforcement and police services for the city except as otherwise provided for in the Civil Defense Act, chapter 639, Acts of 1950.

(c) *Department Head.* The department shall be headed by the chief of police ("chief") who shall be appointed by, and shall serve at the pleasure of, the city manager, unless otherwise provided by law.

(a) *Duties and Responsibilities.* The chief shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) enforce all laws, ordinances, rules and regulations affecting the public;
- (5) receive and answer complaints of violations of law, ordinances, and rules and regulations affecting the public;
- (6) supervise and direct the officers and civilians in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;

- (7) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the peace, security and good order of the city;
- (8) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (10) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (11) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (12) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (13) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council;
- (14) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (15) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;
- (16) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager; and,
- (17) perform all duties prescribed by chapter forty-one, section ninety-eight of the General Laws and the rules and regulations of the department.

(e) *Conflict with State Law.* Nothing in this section shall be deemed to conflict with the General Laws or abridge the powers and authority vested by the city charter in the city manager as the chief conservator of the peace of the city.

(f) *Table of Authorized Positions.* The department shall consist of the chief and such deputy chiefs, captains, lieutenants, sergeants and other officers and civilian employees as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(g) *Duties and Responsibilities of Deputy Chiefs and Subordinate Officers.* The deputy chiefs of police shall aid the chief in the performance of the duties and responsibilities prescribed by this section and shall perform any lawful act directed or commanded by the chief. All other officers of the department shall perform any lawful act directed or commanded by their superiors, in accordance with the rules and regulations of the department.

(h) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

(i) *Records of Persons Arrested.* The chief shall cause to be kept at police headquarters a complete descriptive list of each and every person arrested. Such list shall contain the arrested person's name, address, nativity, age, height, complexion, weight, color of hair and eyes, the amount of money and a list of other valuables found on such person, all offenses for which he or she has been arrested and any other information that the chief may deem appropriate. All of the above shall be entered and indexed in a book to be furnished by the city. Said book shall be delivered by each chief to his or her successor in office.

(j) *Duties at Fires.* It shall be the duty of the department to aid the fire department by giving alarms in case of fire and clearing the streets and grounds in the immediate vicinity of the fire, so that the members of the fire department shall not be hindered in the performance of their duties.

(k) *Emergency Lines.* The officers of the department shall have the authority to rope off the streets and grounds in the vicinity of a fire or any other catastrophe or emergency and to prevent all persons, except members of the fire department and other emergency personnel, from passing inside the lines.

(l) *Assistance to Other Cities and Towns.* The chief is authorized to extend such aid as he may deem necessary to another city or town at the request of the city or town in suppression of riots and other forms of violence therein, provided, however, the chief shall receive prior approval of the city manager before extending assistance outside the greater Worcester area.

(m) *Auxiliary Police.* The city manager may appoint members of the auxiliary police as "special police officers," and the department may contract, subject to appropriation by the city council and upon approval of the city manager, for the voluntary service of said members of the auxiliary police and for the purchase of appropriate insurance coverage for such members while on duty and under the direction of the chief.

(n) *Special Police Officers.* The city manager may appoint special police officers for a term of a calendar year, and he may remove the same at any time. Special police officers shall have and exercise police powers only for the area designated by the city manager and shall be subject to such conditions as the city manager shall establish. No special police officer shall carry a weapon while on duty unless he has received special permission to do so by the chief. An application fee of fifteen dollars shall be paid by any person who applies for appointment as a special police officer.

(o) *Constables.* The city manager may appoint constables pursuant to the requirements of G.L. chapter forty-one, sections ninety-one and ninety-one B for a term of one year commencing on January first and ending at 11:59 p.m. on December thirty-first of each calendar year. No person who is not a resident of the city shall be eligible for appointment as a constable; provided, however, that the foregoing provision shall not apply to regular full-time employees of the city who are required by the terms of their employment with the city to become constables. The city manager shall, from time to time, as public good may require, establish the number of constables to be appointed in the city. The chief shall investigate each applicant's fitness and qualifications under law for appointment as a constable. Any applicant seeking appointment or reappointment shall pay an application fee of one hundred dollars. Each constable shall give the bond to the city in the amount required by the city, with sureties approved by the city, and shall file the bond, with the approval of the city manager endorsed thereon, with the city clerk.

(p) *Excusing Members from Duty.* The time and manner of excusing members of the department from duty shall be determined by the chief. A member so excused shall be exempt from duty and from attendance at a police station or other place, but otherwise shall be subject to all laws and rules and regulations relating to the members of the department. The chief shall have authority, whenever, in his or her judgment, any public emergency or any unusual demand for the services of the police requires, to prevent any members of the department from taking time off when the member is entitled thereto at the time assigned therefor, or to recall such uniform members back to duty for such duration and to such extent as the chief deems necessary.

(q) *Holiday and Overtime Pay.* For the purpose of computing holiday pay and overtime pay due police officers in accordance with the provisions of General Laws, chapter one hundred forty-seven, sections seventeen A and seventeen C, the words "police officer" shall be construed to include police chief, deputy chiefs, captains, lieutenants, sergeants and patrol officers.

(r) *Off-Duty Employment of Police Officers.* No police officer shall, during his or her off-duty hours, enter the employ of any person, firm, corporation, or engage in any gainful occupation without the express written permission of the chief. In granting of any such permission, the chief shall first determine that:

- (1) such employment or occupation will not impair the police officer's efficiency as a police officer;
- (2) such employment or occupation is not incompatible with his employment as a police officer nor tend to bring into disrepute the department; and,

(3) such employment or occupation will not seriously impair or affect the employment of others engaged in like employment or occupation.

(s) *Uniforms and Vehicles.* The chief shall determine and authorize the type, style and color of uniforms of members of the police department and the color schemes, insignia, lighting attachments and identification of all motor vehicles of the police department; and, except as otherwise provided by law, no person shall wear a similar uniform or drive a similar motor vehicle that gives the impression of an official Worcester police uniform or motor vehicle. Uniforms and motor vehicles of any private police, security police, special police, civilian watchman, private guards, animal guards or other private persons, with or without police powers, including charitable or business corporations, that come within the above prohibition may be worn or driven if the use of such uniform or motor vehicle is approved in writing by the chief.

(t) *Rules and Regulations.* The city manager shall promulgate rules and regulations as may be deemed necessary for the department and its personnel.

## **§ 2. Fire Department**

(a) *Establishment.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department to be known as the "Fire Department" ("department").

(b) *Function.* It shall be the function of the department to provide fire suppression and protection services, first responder and emergency response management services for the city.

(c) *Department Head.* The department shall be headed by the chief engineer who shall be known as the "fire chief" ("chief") who shall be appointed by, and shall serve at the pleasure of, the city manager, unless otherwise provided by law.

(d) *Duties and Responsibilities.* The chief shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) perform all duties prescribed by chapters forty-eight and one hundred and forty-eight of the General Laws and by rules and regulations of the department;

- (5) provide fire protection, firefighting and other emergency service for the city, including, but not limited to, salvage and overhauling operations;
- (6) act as the agent of the city manager in the preparation, planning, organization, maintenance, administration and operation the emergency response management and civil defense duties and activities of the city as the same may be authorized or required by law, including chapter 639 of the Acts of 1950 and any regulations promulgated thereunder, or any declaration of emergency issued by the city manager, the governor or the president of the United States;
- (7) supervise and direct the officers and civilians in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department and providing each firefighter with a manual containing the rules and regulations of the department and pertinent ordinances and to enforce the same; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (8) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the safety, security and good order of the city;
- (9) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (10) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (11) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (12) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (13) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;

- (14) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (15) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (16) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;
- (17) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager;
- (18) conduct the inspections prescribed in the General Laws and the fire prevention code; and
- (19) possess the duties and authorities of a forest warden as contained the General Laws, chapter 48, section eight through twenty-eight C.

(e) *Table of Authorized Positions.* The department shall consist of the chief and such deputy chiefs, district chiefs, captains, lieutenants, firefighters and civilian employees as the city council, with the advice of the city manager, shall from time to time authorize.

(f) *Duties and Responsibilities of Deputy Chiefs and Subordinate Officers.* The deputy chiefs shall aid the chief in the performance of the duties and responsibilities prescribed by this section and shall perform any lawful act directed or commanded by the chief. All other officers of the department shall perform any lawful act directed or commanded by their superiors, in accordance with the rules and regulations of the department.

(g) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

(h) *Authority of Chief at Fires & Emergencies.* The chief, or, in his absence, the officer in charge, shall have sole command at the location of any fire or during the emergency response as described in this section over all members of the department and all other persons who may be present and shall have authority to direct all measures for the extinguishment of fires, protection and preservation of property, preservation of order and the observance of laws, ordinances and rules and regulations respecting fires.

(i) *Disability of Chief.* The city manager shall determine what officer shall act, with full duties and authority, in the place of the chief or other officer during the absence or disability of such chief or other officer.

(j) *Advisory Board.* There shall be within the department an advisory board of chiefs, which shall act as an advisory board to the chief. The board shall consist of the deputy and district chiefs of the department, and the chief, who shall be its chair. The advisory board of chiefs shall meet only on the call of the chief and shall render such assistance or advice as the chief may request.

(k) *Aid to Other Cities and Towns.* The chief is authorized to extend such aid as he may deem necessary to another city, town, fire district or area under federal jurisdiction in the Central Massachusetts Regional Planning District or outside the district, with the approval of the city manager, but within the commonwealth for extinguishing fires therein.

(l) *Fire Inspection Companies.* It shall be the duty of the chief to divide the city into as many fire inspection areas as there are companies, and to assign an area to each company for inspection, according to the rules and regulations of the department. Any firefighter, while making such inspection, shall be in uniform and wear the badge of the department. Records of these inspections shall be kept at the office of the chief and shall be available for inspection by the city manager or the city council. The chief, in his annual report, shall give the results of these inspections by area, stating the number of inspections made and a list of cases requiring the enforcement of the provisions of the fire prevention code.

(m) *Excusing Uniform Members from Duty.* The time and manner of excusing uniform members of the department from duty shall be determined by the chief. A member so excused shall be exempt from duty and from attendance at a fire station or other place, but otherwise shall be subject to all laws and rules and regulations relating to a uniform member of the department. The chief shall have the authority, whenever in his judgment, any public emergency or any unusual demand for the services of the department requires, to prevent any uniform members of the department taking time off when the member is entitled thereto at the time assigned therefor or to recall such uniform member back to duty for such duration and to such extent as the chief deems necessary.

(n) *Off-Duty Employment of Firefighters.* No uniformed member of the department shall, during his or her off-duty hours, enter the employ of any person, firm, corporation, or engage in any gainful occupation without the express written permission of the chief. In granting of any such permission, the chief shall first determine that:

- (1) such employment or occupation will not impair the uniformed member's efficiency;
- (2) such employment or occupation is not incompatible with the uniformed member's employment as a firefighter nor tend to bring into disrepute the department; and,
- (3) such employment or occupation will not seriously impair or affect the employment of others engaged in like employment or occupation.

(o) *Traffic Control by Uniform Members.* Notwithstanding any contrary provisions of the Revised Ordinances, uniformed members of the department, if so authorized by the officer in charge, may direct traffic as may be required to permit fire vehicles to leave or enter a firehouse or to park at the scene of an emergency.

(p) *Drawing Water from Hydrants or Reservoirs.* No firefighter or any employee of the department shall draw water from the reservoirs or hydrants except in case of fire or other emergencies unless specifically authorized by the chief to do so.

(q) *Taking Department Property Out of the City.* No property belonging to the department shall be taken out of city limits unless by order of the chief or the city manager.

(r) *Rules and Regulations.* The city manager shall promulgate, with the approval of the city council, rules and regulations for the government of the department and its members.

(s) *Fire Prevention Bureau.* There is hereby established a fire prevention bureau within the department under the jurisdiction of the chief. The fire prevention bureau shall be in the charge of the chief inspector who shall be designated by the chief and shall:

- (1) administer the fire prevention bureau;
- (2) perform the inspection duties prescribed by the General Laws and the fire prevention code; and,
- (3) perform such other duties as may be prescribed by the chief.

(t) *Training Bureau.* There is hereby established within the department a training bureau under the jurisdiction of the chief. The bureau shall be in the charge of a chief of training who shall be designated by the chief and shall:

- (1) administer the training bureau;
- (2) develop, deliver, test and document mandatory and non-mandatory firefighter development training programs to the members;
- (3) develop, test and document in-service training programs; and,
- (4) perform such other duties as may be prescribed by the chief.

(u) *Maintenance Bureau* There is hereby established a maintenance bureau within the department, under the jurisdiction of the chief. The maintenance bureau shall be in the charge of the director of fire apparatus repair and maintenance who shall be designated by the chief and shall:

- (1) administer the maintenance bureau;
- (2) develop, test, repair, maintain, and document procedures that assure that apparatus and firefighting equipment belonging to the department are in proper working order;
- (3) maintain an inventory, including fire station supplies that will allow the department to function on a daily basis;
- (4) perform such other duties as may be prescribed by the chief.

(v) *Emergency Response Management Bureau.* There is hereby established an emergency response management bureau within the department, under the jurisdiction of the chief. The bureau shall be responsible for the operation and coordination of the emergency response management functions of the department and shall:

- (1) administer the emergency response management bureau;
- (2) develop, test, maintain, and document procedures and protocols for the coordination of state, local and federal agencies responding to any emergency as described herein;
- (3) develop, test, maintain, and document interoperability communications protocols for the coordination of state, local and federal agencies responding to any emergency;
- (4) provide training in emergency response matters for members of the department, members of other city departments, employees of any other city or town in Worcester County, volunteers and the public in general;
- (5) maintain an inventory of equipment and supplies which would be required during any emergency response;
- (6) maintain liaison with the state and federal civil defense and emergency management agencies and cooperate with such agencies in carrying out the national program for civil defense and the state program for emergency management;
- (7) maintain complete records of all matters relating to any response to any such emergency, including records of all expenditures for salaries, overtime, supplies, services and equipment made or incurred as part of any such response;
- (8) perform such other duties as may be prescribed by the chief.

(w) *Declarations of Emergencies.* Whenever any natural disaster, heavy snow or ice storm, drought, or fire, or chemical, biological and nuclear accident or attack, or riot, mob or other act of lawlessness or civil disorder, endangers the health, safety and good order of persons or property within the city, the city manager may declare a state of emergency. Any such declaration shall state the reasons for its issuance, the geographic area governed, what property or types of property may be appropriated to respond to the specified emergency and the extent to which ordinarily lawful activity shall be prohibited or impaired. The city manager shall, as soon as practicable, transmit any such declaration to the city clerk. The city council may, by two-thirds vote, repeal, rescind or modify any such declaration.

(x) *Emergency Appointments and Expenditures.* During any state of emergency as described herein, the city manager may, within the limits of the amount appropriated therefore, appoint such experts, clerks, assistants, and such personnel as the work of the department may require, and he may remove them. The city manager shall have the authority to appoint district coordinators as may be required. The city manager may make such expenditures within the appropriation therefore, or from other funds available to him, as may be necessary to execute effectively the purpose of chapter 639, Acts of 1950, or any other applicable law. The city manager may take command of any or all motor vehicles and other mechanical means of transportation, and all equipment related thereto, owned or controlled by the city or any of its departments, boards, commissions and agencies, for the duration of the state of emergency and deem such vehicles emergency vehicles. All city employees in possession of such vehicles and equipment shall comply with the directives of the city manager regarding the use of any such vehicle.

(y) *Acceptance of Gifts and Grants During Emergencies.* The city manager on behalf of the city shall have the authority to receive on behalf of the city, services, equipment, supplies, material or funds by way of gift, grant or loan, for purposes of civil defense, ordered by the federal or state government, or any agency or office thereof, or any person, firm or corporation, subject to the terms of the offer and the rules and regulations, if any, of the agency or entity making the offer.

(z) *Application to State Law.* All references to chapter 639, Acts of 1950, shall be applicable to act or acts in amendment or continuation of or substitution for chapter 639. Nothing in this chapter shall be deemed to limit or otherwise abridge the emergency powers or direction and control over emergency management or civil defense vested in the city manager by virtue of the Home Rule Charter, any statute or the common law.

### **§ 3. Communications Department**

(a) *Establishment.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Communications Department" ("department").

(b) *Function.* It shall be the function of the department to provide and maintain public safety communications services for the city.

(c) *Head of Department.* The department shall be headed by the director, who shall be appointed by and shall serve at the pleasure of the city manager.

(d) *Duties & Responsibilities.* The director shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) provide and maintain radio and telecommunications and services and facilities for all city departments and agencies including the school department;
- (5) operate and maintain a central communications center for all public safety communications;

- (6) supervise and direct the employees in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (7) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the peace, security and good order of the city;
- (8) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (10) identify, acquire, maintain and renew any license necessary or useful in carrying out the duties and responsibilities of this section;
- (11) allocate and assign various portions of the radio and telecommunications facilities of the city to the various city departments and agencies;
- (12) ensure compliance with all state or federal laws and regulations concerning the radio and telecommunications facilities and services provided by the department;
- (13) administer the department and its employees and, to inform the heads of city departments or divisions whenever employees of such departments or divisions fail to comply with applicable laws, regulations, training or practices required or recommended by the department;
- (14) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (15) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (16) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council;

- (17) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (18) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (19) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

(e) *Table of Authorized Positions.* The department shall consist of a communications director ("director") and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

(f) *Licenses.* The director with the approval of the city manager, may issue licenses to any public or private entity interested in utilizing any radio or telecommunication service or facility under the care, custody and control of the department. No such license shall be issued unless 1) the director determines in writing that the service or facility usage permitted by the license shall not materially diminish the radio or telecommunications services or facilities required by city departments and agencies; and 2) the licensee pays a license fee to the city. The director shall, with the approval of the city manager, establish appropriate fees for such licenses. Any license issue under this section shall not exceed a term of twelve months, but may be renewable or self-renewable for additional one year periods, and shall be revocable at the will of the director.

(g) *Records.* The division shall keep audio recordings of emergency telephone activity and public safety radio transmissions, and shall make same available to public safety agencies as their needs might require.

(h) *Conflict with State Law.* Nothing in this section shall be deemed to conflict with the General Laws or abridge the authority vested in the city manager, the chief of police, or the chief of the fire department.

(i) *Regulations.* The director may promulgate such rules and regulations as may be deemed necessary or proper to the purposes of this section.

#### **§ 4. License Commission**

(a) *Establishment of the License Commission.* Under authority of chapter 461 of the Acts of 1914 and section fifty-four of chapter 444 of the Acts of 1893, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a regulatory commission of the city to be known as the "License Commission" ("commission").

(b) *Membership.* The commission shall consist of three persons, residents of the city, who shall be appointed by the city manager. The members of the commission shall serve terms of four years, which shall begin on January first and end on December thirty-first four years hence, and shall be staggered as such that no two terms shall expire at the same time. Vacancies shall be filled for the unexpired portion of the term vacated. The city manager shall annually designate one member of the commission as its chair.

(c) *Duties & Responsibilities.* The commission shall have the duty and responsibility to:

- (1) perform all actions and issue licenses authorized by chapter one hundred thirty eight of the General Laws relative to the sale of alcoholic beverages, wines or malt beverages;
- (2) establish reasonable fares for the conveyance of passengers in taxicabs, liveries, or any other truck, wagon or vehicle licensed under these Revised Ordinances;
- (3) conduct hearings and decide questions of the revocation of any taxicab, livery or other vehicle license issued under these Revised Ordinances;
- (4) perform all actions and issue any other license required by the General Laws to be issued by a local license commission;
- (5) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (6) hear all appeals on decisions made by any licensing authority concerning any license issued under chapter eleven of these Revised Ordinances;
- (7) perform all duties required of it by any other provision of these Revised Ordinances;
- (8) perform any function or take any other action prescribed or authorized by law concerning the issuance of licenses by local licensing authorities; and,
- (9) make and issue rules and regulations in accordance with law for the conduct of its affairs.

## **Article 6. Department of Health & Human Services**

- § 1. Establishment
- § 2. Function
- § 3. Head of Department
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- §15. Code Enforcement Division
- §16. Public Library Directors
- §17. Early Scholarship Committee
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- §19. Veterans' Services Division

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### **§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Health & Human Services" ("department").

### **§ 2. Function**

It shall be the function of the department to improve the human spirit and condition of all residents of the city by promoting the public health, providing for the elderly and veterans, advancing human rights and the equality of women and the disabled, supporting the operation of the public library, encouraging cultural activities, providing workplace skills training programs, and enforcing laws relating to health and human safety.

### **§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the commissioner of health and human services ("commissioner") who shall be appointed by, and shall serve at the pleasure of, the city manager.

(b) Duties and Responsibilities. The commissioner shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department and its divisions;
- (2) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (3) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;
- (4) attend various neighborhood and community group meetings as directed by the city manager;
- (5) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (6) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (7) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (8) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (9) except in the case of property placed under the care, custody and control of the board of library trustees, have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department, or any of its divisions, by the city manager or the city council;
- (10) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and,
- (11) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;

- (12) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (13) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

**§ 4. Authorized Positions**

(a) Table of Authorized Positions. The department shall consist of the commissioner and include a director of administration and public health, a director of elder affairs, a human rights director, a head librarian, a director of code enforcement, a director of veterans affairs and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time..

(b) Manner of Appointment. Each position in the department, except that of the head librarian, shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

**§ 5. Organization of Department**

(a) Establishment of Divisions. The department shall be organized into the following divisions for the following purposes:

*Administration Division* - to assist the commissioner in the performance of the duties and responsibilities as the of the head of the department;

*Disability Division* - to bring about full and equal participation in all aspects of life in the city for all people with disabilities;

*Elder Affairs Division* - to enhance the quality of life for elders in Worcester by identifying needs, developing and implementing programs and services to meet those needs, advocating on behalf of elders and operating a focal point senior center within the city;

*Human Rights Division* - to assure that every individual shall have equal access to and benefit from all public services, to protect every individual in the enjoyment and exercise of civil rights and to encourage and bring about mutual understanding and respect among all individuals of the city;

*Public Health Division* - to preserve, promote and protect the physical and mental health of the inhabitants of the city; to preserve, promote and protect the physical and mental health of the inhabitants of the city; to prevent and abate the spread of communicable diseases, rodents and illnesses borne by food, animals or insects; to develop and conduct tobacco control and alcohol and substance abuse programs; to collect and distribute statistics and reports on public health occurrences and issues within the city; to adopt regulations under authority provided by the General Laws; to enforce all relevant laws, ordinances and regulations; to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and, to provide public health services for the city of Worcester.

*Code Enforcement Division* - possess and exercise all of the powers, duties and responsibilities vested by section three of chapter one hundred forty three of the General Laws in a building inspector, including the authority to; exercise every authority provided by law to enforce building, housing and architectural access codes, laws, ordinances and regulations; organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and, perform the duties and responsibilities described in section 5(b)(1-10) above.

*Public Library Division* - to provide library services to the residents of Worcester;

*Scholarships Division* - to select the recipients of various scholarship funds and trusts held by the city, including the Thomas J. Early Scholarship Fund;

*Status of Women Committee Division* - to formulate, encourage, promote and monitor programs and policies relating to the status of women in the city;

*Veterans' Services Division* - to provide services to veterans.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division (except for the head librarian as regards items (6) and (8) below) shall also have the duty and responsibility to:

- (1) assist the commissioner in the performance of duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the commissioner or otherwise prescribed by law;
- (2) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the commissioner;

- (3) supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the commissioner up to and including suspensions for no more than five working days;
- (4) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (5) keep the commissioner informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (6) recommend to the commissioner implementing the rules, policies and practices governing the operations of the department as are approved by the commissioner; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the commissioner;
- (7) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the commissioner;
- (8) make recommendations to the commissioner on changing or initiating any policy, operation, program or service to the public;
- (9) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the commissioner; and,
- (10) maintain any property assigned to the division by the commissioner.

(c) *Management of Multiple Divisions.* The commissioner, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the department.

## **§ 6. Administration Division**

(a) *Division Head.* The director of administration shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of administration of the department shall:

- (1) manage the processing of payroll, purchasing, contracts, and personnel documentation for the department; and,

- (2)assist the commissioner in the performance of his or her duties and responsibilities as the head of the department; and,
- (3)perform the duties and responsibilities described in section 5(b)(1-10) above.

#### **§ 7. Disability Division**

(a) *Division Head.* The commission on disability director shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The commission on disability director shall:

- (1) assist the commission on disability in the performance of its legal duties and responsibilities;
- (2) administer the affairs of the commission on disability and serve as its keeper of the records; and,
- (3) perform the duties and responsibilities described in section 5(b)(1-10) above.

#### **§ 8. Disability Commission**

(a) *Establishment of Commission on Disability.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Worcester Commission on Disability" ("commission").

(b) *Membership.* The commission shall consist of seven members appointed by the city manager for three-year terms. The terms shall be staggered such that no fewer than two terms shall expire on May thirty-first of each year. A majority of said commission members shall consist of people with disabilities, one member may be a member of the immediate family of a person with a disability. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term.

(c) *Associate Members.* The city manager may appoint up to five associates of the commission, a majority of whom shall be persons with disabilities. The terms of associates shall expire on May thirty-first of each year and shall be staggered such that no more than two terms shall expire in any given year. Associates shall not be deemed members of the commission; however, whenever any member of the commission is absent from any meeting of the commission, associates shall, upon designation by the chairperson and by order of their appointment, fill such vacancies and shall have authority to participate and vote during such meeting. In making any such designation, the chairperson shall identify the member of the commission in whose stead the associate shall act. Should any absent member arrive at a meeting after an associate has been designated to act in his or her stead, the authority of the associate to act shall cease and the member shall take his or her place with the commission.

(d) *Duties & Responsibilities of the Commission.* The commission shall:

- (1) choose annually from among its regular members a chairperson, vice-chairperson and secretary, provided that it may designate the director of the commission on disability as its secretary;
- (2) research local problems of people with disabilities;
- (3) coordinate the activities of other local groups or individuals organized or committed to meet the needs of people with disabilities;
- (4) carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts Office on Disability;
- (5) review and make recommendations about policies, procedures, services and activities of city departments and agencies as they affect people with disabilities;
- (6) work in cooperation with city departments and agencies to bring about full and equal participation by people with disabilities;
- (7) advise and assist city officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities;
- (8) influence city policies and coordinate with programs of the Massachusetts Office on Disability;
- (9) encourage public awareness of disability issues;
- (10) provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses and organizations in all matters pertaining to disability;
- (11) recruit and recommend prospective commission members to the city manager; and,
- (12) submit an annual report to the city manager stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the status of persons with disabilities in Worcester.

(e) *Commission to Act Only By Majority Vote.* All actions of the commission shall be taken by majority vote of the commission members present and shall be recorded in the minutes of its meetings. No member of the commission shall claim or assert any regulatory or enforcement authority by virtue of membership on the commission. In no event shall any member of the commission claim to be acting on behalf of the commission unless such action was authorized in advance by vote of the commission.

(f) *Commission Attendance Required.* Any member who fails to attend any three consecutive meetings of the commission shall be deemed to have abandoned his or her membership on the commission. The commission may then recommend to the city manager that such position be declared vacant and request that a replacement be appointed and, if the city manager concurs with that recommendation, he shall then notify the member of his or her removal and proceed to fill the vacancy.

(g) *Powers & Duties of the Chair.* The chairperson of the commission shall have the following powers, duties and responsibilities:

- (1) establish the time, place and agenda for commission meetings in coordination with other commission members;
- (2) preside over meetings of the commission; and,
- (3) establish sub-committees of the commission and appoint members of the commission thereto.

(h) *Powers & Duties of the Vice-Chair.* The vice chairperson of the commission shall exercise the powers, duties and responsibilities of the chairperson in the event of the absence of the chairperson at any commission meeting or function or in the event of a vacancy in that position.

(i) *Duties of the Secretary of the Commission.* The secretary of the commission, either personally or through the commission on disability director, shall:

- (1) prepare and maintain minutes of all meetings of the commission and any of its sub-committees, which minutes shall include the date, time, place, members present or absent and the actions taken;
- (2) ensure that notice of all meetings is posted with the city clerk at least forty-eight hours before each meeting of the commission or any of its sub-committees;
- (3) maintain a file including all the correspondence and other papers received or generated by the commission or any of its sub-committees; and,
- (4) issue certified copies of any commission records or papers as required by law.

(j) *Acceptance of Grants.* The commission, with the approval of the city manager and a vote of the city council as provided in G.L. c. 44 § 53A, may accept in the name of the city of Worcester grants or gifts of funds from the federal government, a charitable foundation, a private corporation, an individual, or from the commonwealth or any city, town or county thereof. All grants or gifts shall be deposited in the city treasury and may be expended without further appropriation by the commission through contracts signed by the chairperson of the commission and the city manager as required by article 5-7 of the city charter or, if the amount is less than two thousand dollars, in accordance with the regulations issued or adopted by the city manager.

## **§ 9. Elder Affairs Division**

(a) *Division Head.* The director of elder affairs shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of elder affairs shall:

- (1) administer the affairs of the commission and the senior center committee;

- (2) administer the programs and activities of the division;
- (3) collect facts and statistics and to conduct special studies affecting the health and welfare of the elderly population of the city;
- (4) encourage the development of programs for the elderly in Worcester;
- (5) identify the needs of the community's older population;
- (6) educate and to enlist the support of the community on the needs of the elderly;
- (7) promote the coordination of programs designed for the elderly in Worcester;
- (8) advise the public agencies of the city on matters affecting the elderly;
- (9) prepare reports to the commission and the city manager on state and federal legislation concerning the elderly, including but not limited to state and federal funds and programs available to the elderly;
- (10) cooperate with the executive office of elder affairs of the commonwealth;
- (11) manage and operate a senior center facility, which shall be the land and buildings acquired by the city of Worcester and located on Providence Street between Winthrop Street and Spurr Street ("senior center");
- (12) encourage and assure within the senior center the maximum level of coordination, collaboration and co-location of individuals and organizations, public and private, engaged in the delivery of services, programs and activities of interest to elders, such as: health insurance, caregiver, benefit and employment counseling services; medical and screening clinics; information and referral services on the issues of health, housing, transportation, education, legal assistance, consumer protection, public safety and support groups; on-site and delivered meals and emergency food distribution; literacy, citizenship and English-as-a-second-language instruction; vocational, cultural and computer programs; senior outreach; senior travel; recreational and wellness programs; dances; gardening; story telling; concerts and entertainment; transportation; day care for elders; and, child care for grandparents raising grandchildren;
- (13) execute on behalf of the department any contract, lease or any other legal document. Any such document involving two thousand dollars or more shall not be binding unless it is also signed by the city manager; and,
- (14) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 10. Elder Affairs Commission**

(a) *Establishment of Commission on Elder Affairs.* Under authority of the General Laws, chapter forty, section eight B, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Commission on Elder Affairs" ("commission").

(b) *Membership on the Commission.* The commission shall consist of fifteen members appointed by the city manager for terms of three years. The terms shall be staggered such that five terms shall expire on October thirty-first of each year.

(c) *Membership on the Senior Center Committee.* The city manager shall designate five members of the commission to serve as a standing committee of the commission and known as the "senior center committee".

(d) *Appointment of Chairs.* The city manager may, from time to time, designate one member of the commission as the chair of the commission and one member of the senior center committee of the commission as the chair of the senior center committee.

(e) *Duties & Responsibilities of the Commission.* The commission shall:

- (1) have general superintendence of the senior center;
- (2) make and enforce such rules and regulations as may be necessary or desirable for the efficient operation of the senior center; provided, that no such rule or regulation shall be voted upon by the commission unless it has first received a recommendation of the senior center committee as to the advisability of any rule or regulation;
- (3) establish standing or ad hoc committees for the conduct of its affairs; and,
- (4) may adopt rules of procedure for the operation of the commission and any committees so formed.

(f) *Duties & Responsibilities of the Senior Center Committee.* The senior center committee shall:

- (1) address all matters concerning the management and operation of the senior center; and,
- (2) make reports and recommendations to the commission on all items it considers. No recommendation of the senior center committee shall be deemed adopted unless and until it is approved by majority vote of the commission.

**§ 11. Human Rights Division**

(a) *Division Head.* The director of human rights shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of human rights shall:

- (1) administer the affairs of the human rights commission and serve as the keeper of its records;
- (2) manage the programs and activities of the division;
- (3) have the power and duty to initiate complaints and investigations of discriminatory practices, report his or her findings to the commission and attempt mediation or conciliation of any complaint alleging discrimination;
- (4) perform such additional duties consistent with this ordinance as may be assigned from time to time by vote of the commission; and,
- (5) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Human Rights Policy.* It is the policy of the city to assure that every individual shall have equal access to and benefit from all public services, to protect every individual in the enjoyment and exercise of civil rights and to encourage and bring about mutual understanding and respect among all individuals of the city. It is clear that behavior which denies equal treatment to any of our citizens as a result of their race, color, religious creed, status, sexual orientation, disability or source of income undermines civil order and deprives persons of the benefits of a free and open society. Nothing in this section shall be constructed as supporting or advocating any particular religious view or lifestyle. To the contrary, it is the intention of this section that all persons be treated fairly and equally and it is the expressed intent of this ordinance to bring about the elimination of prejudice, intolerance, bigotry, discrimination and the disorder occasioned thereby.

## **§ 12. Human Rights Commission**

(a) *Establishment of Human Rights Commission.* Under authority of Article Six of the Home Rule Charter and to promote the human rights policy of the city, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Human Rights Commission" ("commission").

(b) *Membership.* The commission shall consist of nine members appointed by the city manager for a term of three years provided, however, that, the terms shall staggered such that no more than three terms expire in any one year. The commission shall annually select one of its members as its chair. The chair shall preside over the meetings of the commission. The commission shall represent a broad spectrum of the Worcester community. Any vacancy, however created, other than by expiration of a term, shall be filled by appointment by the city manager for the unexpired portion of the term.

(c) *Duties & Responsibilities of Commission.* The commission shall possess and exercise the power and duty to:

- (1) conduct investigations: to receive and investigate complaints of and to initiate its own complaints and/or investigations of:

- (i) the denial of equal access to and discrimination in employment, housing, education, recreation and public accommodation (regardless of the public or private source of such denial or discrimination) where such denial or discrimination against a person is based on race, color, religious creed, national origin, gender, age, ancestry, marital status, parental status, sexual orientation, disability or source of income;
- (ii) the denial to any person of equal access to and benefit from all public services;
- (iii) the violation of the enjoyment and exercise by any person of his or her civil rights; and,
- (iv) the presence in the city of prejudice, intolerance, bigotry, discrimination and the disorder occasioned thereby;

*provided, however, that the executive director, with notice to the commission, shall refer any allegation involving the conduct of the any city employee, including the city manager, city clerk, city auditor or the superintendent of schools, to the Massachusetts Commission Against Discrimination or other appropriate state or federal agency and shall in no event initiate or otherwise conduct any investigation or inquiry regarding these officials or employees.*

- (2)hold hearings: to take testimony, administer oaths, and conduct hearings and adjudicatory proceedings in accordance with sections 9, 10 and 11 of G.L. c.30A on any matter within its jurisdiction and, with the assistance and advice of the city solicitor, subpoena witnesses, seek court orders to compel the attendance of witnesses or the production of documents or other evidence;
- (3)conduct mediation: to attempt, by mediation, to resolve any complaint over which it has jurisdiction and to recommend to the city manager or other appropriate governmental agency, federal, state or local, such action as it deems appropriate. In the conduct of any such mediation the commission may utilize not only the members and staff of the commission but such organizations as the Worcester County Bar Association, the National Association for Dispute Settlement of the American Arbitration Association and any other similar organizations;
- (4)issue orders and reports: after completion of any investigation or hearings on any complaint or matter not resolved by mediation, the commission may:
  - (A) upon a finding of an "unlawful practice", as that term is defined under section 4 of G.L. c.151B, issue cease and desist orders to the party believed to be responsible for such unlawful practice; provided, however, that in no event shall the commission issue any cease and desist orders to the city, its departments and agencies, or its employees insofar as the city employee is or was acting within the scope of his or her employment.

(B)make a written report of its recommendations and findings to:

- (i) the city manager on any matter within the manager's jurisdiction for review and implementation (including the taking of disciplinary or administrative action) as the city manager deems justified; or,
- (ii) the school committee or superintendent of schools on any matter within their jurisdiction; or
- (iii) the city council for employees under its jurisdiction; or the Massachusetts Commission Against Discrimination (MCAD) on any matter within its jurisdiction;
- (iv) other governmental agency having jurisdiction over the matter in question,

and, in all cases, urging and using its best efforts to bring about compliance with its recommendation; or

(C) assist in securing legal representation for complainants for who, in the opinion of the commission, are indigent or facing undue financial hardship and arrange for legal representation for any complainant who, in the opinion of the commission, has a justifiable complaint which involves a matter outside of the jurisdiction of either the city manager, city council, superintendent of schools or school committee, yet one which is within the jurisdiction of the commission but must be processed by the complainant before the MCAD or some other state or federal governmental agency (or court), provided, however, that the commission shall attempt to secure such representation only for those complainants for whom undue hardship, in the opinion of the commission, would otherwise result;

(5)review departmental policies: to review the existing policies, rules and regulations of any city department, board, commission or agency and provide its comments, conclusions and recommendations in writing to the city manager and the head or executive officer of any such city department, board, commission or agency, to the extent the foregoing regulations relate to the human rights ordinance of the city;

(6)review departmental disciplinary actions: to review the results of any internal disciplinary action taken by any department, board, commission or agency of the city, including reports of the internal affairs division of the police department, and to make comments, conclusions and recommendations jointly to the city manager and the head or executive officer of any such department or agency to the extent such internal disciplinary investigations relate to the human rights ordinance of the city. Upon the request of the director, the head or executive officer of any department or agency of the city shall forward to the director a copy of any internal disciplinary action report at such time and only to the extent such report becomes a public record under the laws of the commonwealth.

The head or executive officer of any city department or agency shall also furnish, subject to the provisions of this ordinance and

- (7)with the advice and consent of the city solicitor, any other such records and information that the director may request relative to any internal disciplinary action. The director shall furnish the commission with copies of any internal disciplinary action report so received and may disclose to the commission, in an appropriate manner or setting as permitted or required by law, any other records and information received pursuant to this subsection. Any individual employed by the city, including members of the commission, the director or other staff, whether compensated or volunteers, who discloses any records or information of a personal nature or otherwise not subject to mandatory release under the public records law of the commonwealth, to any person, except as provided for herein, may be subjected to employee discipline by the appropriate city official or removed from the commission by the city manager, as the case may be;
- (8)issue publications: to issue such publications and such results of investigations and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination because of race, color, religious creed, national origin, sex, age or ancestry, marital status, parental status, sexual orientation, disability or source of income;
- (9)develop training programs: to develop, in cooperation with the executive offices of human resources and employment and training as well as any federal, state or other city agency or department, programs of instruction for city employees, other municipal employees, or private sector businesses, institutions or employees concerning the elimination of prejudice, intolerance, bigotry and discrimination and the value of mutual self-respect and the achievement of harmonious relationships among all individuals;
- (10) create committees: to create such committees from the members of the commission as, in the commission's judgment, will best aid in effectuating the provisions of this ordinance and to empower such sub-committees to study the problems of prejudice, intolerance, bigotry and discrimination existing in the city due to denial of equal treatment as a result of race, color, religious creed, national origin, gender, age, ancestry, marital status, parental status, sexual orientation, disability or source of income;
- (11) make recommendations and annual reports: to make such recommendations to any public official or public body as, in its judgment, will effectuate the policy of this ordinance and, annually, to make a written report to the city manager of its activities. The commission's annual report to the city manager shall be made available to the public;
- (12) make rules and regulations: to adopt rules and regulations consistent with this ordinance and the laws of the commonwealth to carry out the policy and provisions of this ordinance and the powers and duties of the commission in connection therewith; and to perform such other duties as may be prescribed under law;

(13) In no event shall the commission file, or in any way be a party to any criminal actions or complaints in any court of law. In all civil matters the commission shall be represented solely by the city solicitor.

(d) *Contributions.* The commission may, with the approval of the city manager and city council, on behalf of the city, accept contributions, grants and appropriations from other governmental agencies and from civic and charitable foundations, trusts and other organizations, private or public, to effectuate the provisions of this section.

(e) *Relations with City Agencies.* Subject to the provisions of the city charter and the laws of the Commonwealth, the commission shall receive the cooperation and assistance of all city departments and agencies. The commission shall respect the privacy of all individuals. In the event the staff or members of the commission receive any documents or information of a confidential nature, or which would be exempt from disclosure under the public records law or which pertains to a subject eligible for discussion in executive session, neither the staff nor members of the commission shall release or divulge such documents or information to parties outside of the commission, its staff, the law department or any other appropriate city official. Unless otherwise provided, herein, all city departments and agencies shall respond to commission requests for administrative and legal services within ten working days of the date of receipt of any such request.

(f) *Definitions.* For purposes of this section the following definitions shall apply:

"age" refers to the actual or supposed chronological age of an individual eighteen years or older and shall relate to claims of denial of equal treatment due to age. This shall not limit the rights of persons under age eighteen to file a complaint for other than age discrimination (e.g. race discrimination, etc.) if accompanied by a guardian, where necessary.

"disability" refers to any actual or supposed physical or mental handicap of an individual, other than legal incompetency.

"internal disciplinary investigation" refers to any inquiry by the city manager or head of any city department or agency to determine whether the conduct of city employees complies with the ordinances, orders, policies and procedures of the city and, if not, what disciplinary measures are appropriate, insofar as such conduct involves allegations of the impairment or violation of the civil or human rights of any individual.

"marital status" refers to the actual or supposed state of being or having been unmarried, married, separated, divorced or widowed.

"parental status" refers to the actual or supposed condition of having or not having children.

"person" includes, but is not limited to, one or more individuals, partnerships, associations, corporations, agencies, legal representatives, trustees, trustees in bankruptcy and receivers, the city and all political subdivisions, boards and commissions.

"sexual orientation" refers to actual or supposed homosexuality, heterosexuality or bisexuality or orientation or practice including, but not limited to, an orientation that may be presumed on the basis of mannerisms, physical characteristics, manner of dress or deportment.

"source of income" refers to the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents excluding the use of criminal activities as a means of support.

(g) *Construction.* The provisions of this section shall be construed liberally for the accomplishment of the purposes hereof. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by federal and state law.

(h) *Effect of State and Federal Law.* Nothing in this section shall be deemed to exempt or relieve any person from any liability, duty, penalty or punishment provided by any present or future law of the commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this section.

### **§13. Public Health Division**

(a) *Division Head.* The director of public health shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of public health shall:

- (1) administer and manage the programs and activities of the division under the general superintendence of the commissioner of public health;
- (2) keep the commissioner of public health informed of the activities of the division and the information gathered by the division concerning public health issues;
- (3) administer the affairs of the board of health;
- (4) coordinate the department's inspection activities with other agencies;
- (5) investigate complaints and enforce the laws, ordinances, codes or regulations administered by the division; and,
- (6) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Commissioner of Public Health.* The commissioner of public health shall be appointed by the city manager for a three year term in accordance with the qualifications and requirements of chapter 181 of the acts of 1953.

(d) *Duties & Responsibilities of the Commissioner of Public Health.* The commissioner shall possess and exercise the power and duty to:

- (1) preserve, promote and protect the physical and mental health of the inhabitants of the city by developing and revising a public health program of the city and providing advice to the city manager on public health issues;
- (2) perform all duties and exercise all the powers vested in a commissioner of public health or a board of health by chapter one hundred eleven of the General Laws, or any other general or special law;
- (3) serve as chair of the board of health;
- (4) promulgate guidelines and regulations concerning the medical activities of the department; and,
- (5) perform such other duties as assigned by the city manager or as may be prescribed by law.

(e) *Inspectors of Animals.* Inspectors of animals shall be appointed annually by the city manager for a term of one year in accordance with the General Laws, chapter one hundred twenty nine, section fifteen.

#### **§ 14. Board of Health**

(a) *Board of Health.* The board shall consist of four members appointed by the city manager for staggered terms of three years each. One member shall have received the degree of doctor of medicine from a medical school classified by the American Medical Association as a Grade A school and another member shall have received a degree in dentistry from a dental school classified by the American Medical or Dental Association as a grade A school. The commissioner shall not be a member of the board but shall serve, *ex officio*, as the chair of the board and shall have no vote unless the board be equally divided.

(b) *Duties & Responsibilities of the Board of Health.* The board shall assist and act with the commissioner as provided in chapter 181 of the acts of 1953.

#### **§ 15. Code Enforcement Division**

(a) *Division Head.* The director of code enforcement shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of code enforcement shall be responsible for the performance of the functions of the division and shall:

- (1) possess and exercise all of the powers, duties and responsibilities vested by section three of chapter one hundred forty three of the General Laws in a building commissioner, including the authority to:

- (A) administer and enforce the state building code pursuant to chapter one hundred forty three of the General Laws and the regulations adopted pursuant thereto;
  - (B) administer and enforce the provisions of the architectural access board pursuant to chapter twenty-two, section thirteen A, of the General Laws and the regulations adopted pursuant thereto;
  - (C) administer and enforce the Zoning Ordinance adopted pursuant to chapter forty A of the General Laws; and,
  - (D) perform the duties vested by chapter one hundred twenty-seven A of chapter one hundred eleven of the General Laws, or any other statute, in a commissioner of housing inspection.
- (2) exercise every authority provided by law to enforce building, housing and architectural access codes, laws, ordinances and regulations;
  - (3) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and,
  - (4) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Reporting Authority.* When administering and enforcing the state building code as well as the requirements of the Architectural Access board, the director shall be directly responsible to the city manager. In all other respects, including the administration and enforcement of the zoning ordinance, the director shall report to the commissioner.

## **§ 16. Board of Library Directors**

(a) *Establishment.* To carry-out the terms of the deed of gift of Dr. John Green to the city of Worcester, dated December 27, 1859, and the last will and testament of Dr. John Green, and subject to the provisions of the General Laws chapter seventy-eight, section seven, there is hereby established under authority of Article Six of the Home Rule Charter within the department a division of the city to be known as the "Free Public Library" ("public library").

(b) *Division Head.* The board of library directors ("board") as so established shall head the division, which shall consist of the board, the head librarian and such other personnel as the city council, with the advice of the city manager, shall, from time to time, authorize in the budget.

(c) *Membership.* The board shall consist of twelve members who shall be appointed by the city council for terms of six years. The city council shall choose in the month of December two directors to fill the vacancies occurring on the first day of January next ensuing, which directors shall hold their office for the term of six years from the first day of January. All vacancies in the board, occasioned by death, resignation, removal from the city or otherwise, shall be filled in like manner, as they arise, for the unexpired term

thereof, and no person shall be eligible to fill a vacancy arising from the expiration of his term of office.

(d) *Duties & Responsibilities.* It shall be the duty and responsibility of the board:

- (1) manage the Free Public Library;
- (2) have care and custody of the buildings and grounds of the library and any branches thereof;
- (3) have sole custody of the books;
- (4) promulgate any and all needful and suitable regulations concerning the Free Public Library and the use thereof;
- (5) manage all trust funds given or bequeathed for the benefit of the Free Public Library, including such trust funds formerly under the control of the board of commissioners of Trust Funds; and,
- (6) perform such other duties as may be prescribed by law.

(e) *Organization of the Board.* The directors shall meet as soon as may be after the first day of January in each year and organize into a board by the choice of a president and a secretary from their own number. A majority of the board shall be required for the transaction of business.

(f) *Secretary.* The secretary shall have the care and custody of all books, records, papers and documents belonging to the board and shall record all the doings of the board in a book to be furnished by the city, and he shall deliver the books, records, papers and documents to his or her successor in office.

(g) *Head Librarian & Officers.* Except as otherwise provided by law, the board shall appoint the head librarian and all subordinate officers and may remove such officers at pleasure. The head librarian shall be the executive officer of the board and shall perform the duties and responsibilities described in section 5(b)(1-10) above unless any such duty or responsibility shall be incompatible with any authority exercised under the provisions of the deed of gift or last will and testament of Dr. John Green.

#### **§ 17. Early Scholarship Committee**

(a) *Establishment of Early Scholarship Committee.* Pursuant to chapter 194 of the Acts of 1986, as amended by chapter 712 of the Acts of 1987, which added section three C of chapter sixty of the General Laws of Massachusetts, as accepted by the city by vote of the city council on January 13, 1987, and under authority of Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a scholarship committee of the city to be known as the "Early Scholarship Committee" ("committee").

(b) *Membership.* The committee shall consist of five residents of the city, one from each election district, appointed by the city manager for terms of three years. The terms shall be staggered such that two terms shall expire each July thirty-first for two consecutive years and one term shall expire on July thirty-first of the next year. The superintendent of schools of the city, or his or her designee, shall also serve on the committee as an ex-officio member.

(c) *Duties & Responsibilities.* The committee shall serve in the memory of former Mayor and City Councilor Thomas J. Early, select the recipients of the amount of financial aid from the scholarship fund created by section three C of chapter sixty of the General Laws and perform such other functions, including the selection of scholarship recipients from other sources of funds, as may be designated by the city manager.

(d) *Selection Criteria.* The committee may adopt any criteria to assist in the selection of recipients, subject to any relevant ordinance and further subject to the following criteria:

- (1) the recipients of financial aid must be residents of the city at the time the financial aid is first awarded and have been accepted to pursue education beyond the secondary school level at an institute deemed accredited by the committee; and,
- (2) the committee shall take into consideration each recipients' financial need, character, scholastic record and involvement in community work as well as extracurricular school activities.

(e) *Distribution of Aid.* The committee may distribute financial aid from both interest and principal of the fund, without further appropriation. The committee shall establish a procedure for determining at least on an annual basis the amounts or percentage of the funds that shall be authorized for distribution and for notifying the city treasurer or other investing officer or agency so that the funds may be made available in a timely manner and with a minimum of penalties.

#### **§ 18. Status of Women Committee**

(a) *Establishment of the Advisory Committee on the Status of Women.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an agency of the city to be known as the "Advisory Committee on the Status of Women" ("committee").

(b) *Membership.* The committee shall consist of fifteen persons appointed by the city manager for three year terms. The terms shall be staggered such that five terms shall expire on August thirty-first of each year. From time to time, the city manager shall designate the chair of the committee.

(c) *Duties & Responsibilities.* It shall be the function of the committee to:

- (1) formulate, encourage, promote and monitor programs and policies relating to the status of women in the city;
- (2) submit annually to the city manager a report stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the status of women in Worcester; and,
- (3) appoint sub-committees as may be needed to carry out its responsibilities.

**§ 19. Veterans' Services Division**

(a) *Division Head.* The director of veterans' services shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director shall:

- (1) administer and manage the programs and activities of the division under the general superintendence of the commissioner;
- (2) perform all duties prescribed by chapter one-hundred fifteen of the General Laws;
- (3) administer the disbursement of veterans' benefits;
- (4) provide services to veterans, members of the armed forces, their families and their dependents;
- (5) provide information and advice to veterans as may be necessary to enable them to procure the benefits to which they are entitled;
- (6) maintain close cooperation with state and federal agencies established for the aid of veterans; and,
- (7) perform the duties and responsibilities described in section 5(b)(1-10) above.

**Article 7. Auditing Department**

- § 1. Establishment
  - § 2. Function
  - § 3. Personnel
  - § 4. Head of Department
  - § 5. Duties & Responsibilities
  - § 6. Bond; City Auditor Pro Tempore
  - § 7. Accounts and Contract Ledgers
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  - § 11. Audits of Certain Departments
  - § 12. Annual Audit
  - § 13. Annual Report of Indebtedness
  - § 14. Reports of the Housing & Redevelopment Authorities
  - § 15. Return to Assessors
  - § 16. Delivery of Assessments and Accounts
  - § 17. Approval of Purchase Orders
  - § 18. Reports of Payments
- 

**§ 1. Establishment**

Under authority of Article Two, § 2-8(b) and Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city council a department of the city to be known as the "Auditing Department" ("department").

**§ 2. Function**

It shall be the function of the department through the city auditor to perform the pre-audit of financial transactions of municipal departments, boards, commissions and committees of the city, including the school department.

**§ 3. Personnel**

The department shall consist of the city auditor and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

**§ 4. Head of Department**

The department shall be headed by the city auditor, who shall be elected by the city council for a term of three years; and who shall reside in the city.

## **§ 5. Duties & Responsibilities**

The city auditor shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the general policies and requirements of the city manager and chief financial officer;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) keep and have charge of the accounts of the city;
- (5) audit from time to time the books and accounts of all agencies of the city;
- (6) perform such other duties as may be prescribed by law;
- (7) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (8) keep the city council informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the finances of the city;
- (9) seek the advice of the city council prior to changing any existing policy or initiating any new program or service;
- (10) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city council;
- (11) perform such other tasks and functions as may be requested by the city council;
- (12) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;

- (13) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (14) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city council;
- (15) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city council; and,
- (16) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city council.

#### **§ 6. Bond; City Auditor Pro Tempore**

The city auditor shall give a bond with surety or sureties to be approved by the city council, in the sum of five thousand dollars, for the faithful performance of his or her duties, and the delivery to his or her successor or to the city clerk, of all books papers, documents and property belonging to the office. Whenever the office of the city auditor shall be vacant or whenever he or she may, from any cause, be unable to perform the duties of the office, the city council may elect a city auditor pro tempore, to hold office, unless sooner removed by the city council, until the vacancy shall be filled by the city council, or the disability shall cease, as the case may be; provided, that such city auditor pro tempore, shall have all the powers and be subject to all the liabilities which pertain to the office.

#### **§ 7. Accounts and Contract Ledgers**

(a) The city auditor shall keep his accounts in the form now in use until otherwise ordered by the city council, and by such divisions and such details as may be necessary to show a clear exhibit of the expenses incurred by each of the several departments of the government, in their various operations, stating, among other things, the appropriation for each department, and for each distinct object or expenditure; and whenever the appropriations for any department or for any objects have been exhausted, he shall immediately communicate the fact to the city manager and the city council, and all expenditures therefor shall cease until a further appropriation is duly made. The city auditor, when requested, shall furnish to the chair of the board, or head of the department having work in charge, the amount of the appropriation therefor, and the amount drawn in gross or in detail.

(b) In addition to the system now in operation in the auditing department, the city auditor, under the direction of the city council, shall maintain appropriation and contract ledgers on which daily entries of expenses incurred and encumbrances assumed shall be made and from which daily unexpended balances and unencumbered balances may be obtained.

## **§ 8. Supervision of Accounts**

The city auditor, under the direction of the city council, shall have general supervision of the accounts kept by the several city departments and shall require the several departments to keep such accounts as may be necessary in such form as he or she shall prescribe.

## **§ 9. Procedure for Payment of Bills**

The city auditor shall receive all bills and accounts from persons having demands against the city, examine them in detail, and have them filed and entered in books in such manner and form as the city council may direct. All doubtful bills and accounts so received shall be presented by the city auditor to the city manager before being entered in such books. Before money is paid out of the city treasury, a requisition therefor, in writing, with detailed accounts attached, specifying the amount to be paid, and the party or parties to whom the payment is due, shall be made by the board or head of the department incurring the expenditure, upon the city auditor. He shall receive all such requisitions, accounts and claims rendered against the city, and carefully examine the same, and shall see that they are correctly cast and approved. In case of any error or informality, he shall make note of the fact, and return the bill or demand with the objections to the officer, board or person presenting the same. When invoices for services rendered or supplies furnished shall have been recorded by the city auditor, the draft or order upon the city treasurer for the payment of the aggregate amount of the bills aforesaid shall be signed by the city manager, and countersigned by the city auditor. The city auditor shall give a certificate for all bills approved as aforesaid to the city treasurer, which certificate shall specify the name of the person or persons authorized to receive the amount due, together with amount duly approved and payable to the person. Such certificate shall be signed by the city auditor, and upon presentation shall be paid by the city treasurer.

## **§ 10. Appropriations Report - Finance Committee**

The auditor shall make an exhibit of the state of the appropriations monthly to the city council; shall render such other services as the city council may direct; and, shall attend all meetings of the city council finance committee.

## **§ 11. Audits of Certain Departments**

The city auditor shall cause to be made a post audit of any or all city departments, if an appropriation is made therefor. This audit shall be made by a certified public accountant, licensed under the General Laws, recommended by the city auditor and approved by the city council.

## **§ 12. Annual Audit**

The auditor shall obtain an annual independent audit of the accounts of the city in accordance with the requirements of the director of accounts of the department of revenue acting pursuant to G.L. c.44, §§ 40 & 42.

### **§ 13. Annual Report of Indebtedness**

All heads of departments and all other officers and boards, including boards of trustees and boards of directors having authority to expend money, shall report annually in writing to the city auditor, not later than the 15th day of July, whether or not they, in their official capacity, or their respective departments or boards, owed any debt at the end of the financial year ending the 30th day June preceding, which was incurred that year and if any, the amount thereof. The city auditor shall, thereupon, furnish each member of the city council at its first meeting next following the 15th day of August, a written statement of the amount of such indebtedness of each department, officer or board in excess of their respective unexpended appropriations for the same year, including also mention of those departments, officers or boards having no such indebtedness.

### **§ 14. Report of the Housing and Redevelopment Authorities**

(a) If requested by the city council, on or before the 30th day of December in each year, the city auditor shall submit a report to the city council, as of the last day of the preceding financial year, covering all financial transactions and agreements that the city has had with the Worcester Housing Authority and the Worcester Redevelopment Authority. This report shall be segregated by fiscal year and shall be further segregated as to each project. The report shall include a statement of all capital outlays by the city, and shall be further segregated as to land gifts, expenditures for making streets public, expenditures for constructing sewers and water connections and any other capital expenditures by the city.

(b) The report shall also include a statement of all monies which the Worcester Housing Authority and Worcester Redevelopment Authority paid over to the city from projects, the sources from which that money was derived, the reason for such payment and the application which the city made of such receipts.

(c) The report shall contain a statement of all monies borrowed by the city for the financing of such projects and the amounts matured and outstanding, together with interest paid and accrued on such borrowings.

### **§ 15. Return to Assessors**

It shall be the duty of the city auditor, upon request of the assessors and before the tax rate is set in each year, to make a return to the assessors of all sums appropriated, granted or lawfully expended by the city since the last preceding annual assessment and not provided for therein, and all sums necessary to satisfy final judgments recovered against the city, specifying the sums for the payment of which the city shall have voted to contract debts under the laws relating to municipal indebtedness; also the amount of temporary loans expressly made payable from the taxes of the current year by vote of the city council, and incurred in anticipation thereof; also all sums required for the payment of interest upon the debt of the city.

#### **§ 16. Delivery of Assessments and Accounts**

It shall be the duty of the several departments and officers of the city to cause to be delivered to the city auditor, who shall take account of and deliver the same to the collector of taxes for collection, all special taxes, assessments and accounts against persons indebted to the city, and no other department or officer of the city, except the collector of taxes, shall receive payment of any such account, except when specially authorized to receive the same.

#### **§ 17. Approval of Purchase Orders**

The several officers of the city and departments to which appropriations are voted by the city council shall present to the city auditor before liability is incurred all orders for services, materials and supplies or any other expenditures or obligation for any of the several departments for his approval as to sufficient funds in the accounts affected to warrant the expenditure of the amount stated in the order. To meet this requirement, a standard system shall be installed in the various departments, subject to the approval of the city auditor, and under the supervision of the city council.

#### **§ 18. Reports of Payments**

All officers authorized to receive money in behalf of the city shall, as often as once in each month, pay over the same to the city treasurer and collector of taxes, reporting at the time of payment the amount thereof to the city auditor, and the city auditor shall audit the accounts of all such officers at the close of each municipal year, and at the expiration of their respective terms of office, or at any other time when ordered by the city council, and for this purpose the auditor shall have access to all books and vouchers in the possession of any officer or committee of the city, and he shall in every case when so ordered, report to the city council the result of his examination.

**Article 8. City Clerk Department**

- § 1. Establishment
- § 2. Function
- § 3. Personnel
- § 4. Head of Department
- § 5. Duties & Responsibilities
- § 6. Assistant City Clerks
- § 7. City Council Meetings
- § 8. Committee Meetings

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city council a department of the city to be known as the "City Clerk Department" ("department").

**§ 2. Function**

It shall be the function of the department to be the official custodian of the city's records, papers and documents and to carry out those duties and responsibilities required by law.

**§ 3. Personnel**

The department shall consist of the city clerk and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

**§ 4. Head of Department**

The department shall be headed by the city clerk, who shall be appointed by the city council.

**§ 5. Duties & Responsibilities**

The city clerk shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the general policies and requirements of the city manager and chief financial officer;

- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) keep to furnish the collector of taxes with an account of any and all assessments made by the city council relating to streets, sidewalks, sewers and otherwise, as soon as may be after such assessments are made;
- (5) perform such other duties as the city council may from time to time require;
- (6) annually report in detail in writing, to the city council all monies received by him as fees or otherwise during the preceding financial year;
- (7) furnish the justices of the Central District Court, the clerk of the superior court for the county of Worcester, the clerk of the Central District Court, the Free Public Library, the Worcester County Library and the chief of police, with attested copies of all ordinances passed by the city council; perform such other duties as may be prescribed by law;
- (8) keep books in which shall be alphabetically arranged the names of all the streets, highways and sidewalks which now are or may hereafter be accepted or laid out, with the date of such laying out or acceptance, and the width thereof, and all alterations therein from time to time made by the city council;
- (9) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (10) keep the city council informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the finances of the city;
- (11) seek the advice of the city council prior to changing any existing policy or initiating any new program or service;
- (12) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city council;
- (13) perform such other tasks and functions as may be requested by the city council;

- (14) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (15) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (16) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city council;
- (17) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city council; and,
- (18) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city council.

**§ 6. Assistant City Clerks**

(a) The city council shall appoint two assistant city clerks on the recommendation of the city clerk.

(b) In addition to having such powers and performing such duties as may from time to time be prescribed for them by the city clerk, it shall be the duty of the assistant city clerks to assist the city clerk in recording, indexing and certifying mortgages of personal property, assignments of wages and other documents required by law to be recorded, and also to attest documents and perform all other duties pertaining to the office of city clerk when thereto requested by him or when the office of city clerk shall be vacant from any cause.

**§ 7. City Council Meetings**

The city clerk or an assistant city clerk shall attend all meetings of the city council. The city clerk shall prepare a calendar of the agenda for each meeting and keep the official records of all such meetings.

**§ 8. Committee Meetings**

The city clerk shall notify the members of the council committees of the meetings thereof and, when requested by the chair of any committee, shall perform such other duties as the committee may require. The city clerk or an assistant city clerk shall attend each meeting of the several committees of the city council and shall make a proper record of all the proceedings and the transaction of the business of each meeting.

## **Article 9. Law Department**

- § 1. Establishment
  - § 2. Function
  - § 3. Personnel
  - § 4. Head of Department
  - § 5. Duties & Responsibilities
  - § 6. Assistant City Solicitors
  - § 7. Claims Committee
  - § 8. Legal Assistants
- 

### **§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Law Department" ("department").

### **§ 2. Function**

It shall be the function of the department to furnish the legal services and advice to all agencies and officers and employees of the city as may be lawfully requested or required.

### **§ 3. Personnel**

The department shall consist of a city solicitor and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

### **§ 4. Head of Department**

The department shall be headed by the city solicitor, who shall be the chief legal officer of the city, and who shall be appointed by and shall serve at the pleasure of the city manager. The city solicitor shall be a member of the bar of the Commonwealth.

### **§ 5. Duties & Responsibilities**

The city solicitor shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;

- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (4) perform provide the legal services, assistance or counsel required by any agency or officer of the city;
- (5) initiate or defend any legal proceeding in which the city is or may be a party or have an interest in and to defend such officers or employees in any proceedings brought against them to which they are or may be entitled to such defense by the city;
- (6) draft the legal instruments of the city;
- (7) review for legal requirements all contracts prior to their execution by the city manager;
- (8) establish such procedures as may be necessary for officers and employees of the city to report and assist in any legal proceedings involving the city or its officers and employees;
- (9) supply city agencies, officers and employees with such forms as may be necessary for the legal conduct of the affairs of the city;
- (10) obtain from the federal government, the General Court, the Attorney General, and from the courts of the Commonwealth, information that may affect the city on proposed or existing laws, interpretations and decisions thereof. To make this information known to the city manager and to the head of any department that may be affected thereby;
- (11) when requested by the city manager, provide legal representation to the Worcester Redevelopment Authority, Worcester Retirement Board, the Upper Blackstone Water Pollution Abatement District and such other entities related to the business of the city of Worcester as the city manager may from time to time further authorize;
- (12) attend all meetings of the city council;
- (13) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;

- (14) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the peace, security and good order of the city;
- (15) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (16) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (17) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (18) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (19) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (20) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (21) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (22) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

#### **§ 6. Assistant City Solicitors**

(a) The city manager may appoint, as shall be provided for in the budget, assistant city solicitors to serve at his pleasure. The assistant city solicitors shall be members of the bar of the commonwealth and shall perform such duties as the city solicitor may direct.

(b) The city manager may also appoint special assistant city solicitors for specific legal matters or cases; said special assistant city solicitors shall be subject to the direction and control of the city solicitor and shall be a member of the highest bar of a state or territory of the United States.

**§ 7. Claims Committee**

When requested by any claimant whose claim has been denied by the claims agent, the city solicitor may create a claims committee consisting of two or more attorneys in the department to hear claimants, all of whom shall receive proper notice of the time and place of such hearing investigate. The committee shall have authority to make recommendations to the city solicitor on the ultimate disposition of any claim presented to it.

**§ 8. Legal Assistants**

The city manager may also appoint, as shall be provided for in the budget, legal assistants, who shall devote full time to their duties and who shall serve at his pleasure. Legal assistants shall be members of the bar of the commonwealth and shall perform such duties as the city solicitor may direct, provided, however, that the city manager may appoint temporary legal assistants who are candidates for admission to the bar of the commonwealth.

**AN ORDINANCE  
REDUCING THE MEMBERSHIP OF THE ADVISORY  
COMMITTEE ON THE STATUS OF WOMEN**

Be it ordained by the City Council of the city of Worcester, as follows:

§ 1. Section 18(b) of Article Six of Part Two of the Revised Ordinances of the City of Worcester is hereby amended by deleting the first and second sentences thereof and inserting in lieu thereof the following:

"The committee shall consist of nine persons appointed by the city manager for three year terms. The terms shall be staggered such that three terms shall expire on August thirty-first of each year."

§ 2. Existing members of the advisory committee on the status of women may serve until their terms expire. No appointments or re-appointments shall be made until the number of individuals serving on any such committee is less than the number authorized by this ordinance.

§ 3. In accordance with Article Six of the city charter, this reorganization ordinance shall take effect upon approval by the city council or ninety days after the date it was received by the city council unless the city council has prior to that date voted to disapprove this ordinance.

In City Council November 15, 2005  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

AN AMENDMENT TO THE REVISED ORDINANCES OF 1996  
RELATIVE TO SEWERS AND STORM WATER MANAGEMENT

Be it Ordained by the City Council of the city of Worcester as follows:

Chapter Five of the Revised Ordinances of 1996 is hereby deleted in its entirety and a new Chapter Five is hereby inserted in lieu thereof as follows:

CHAPTER FIVE

SEWERS AND STORM WATER MANAGEMENT

§ 1. Definitions

PERMIT & APPLICATION REQUIREMENTS

- § 2. Permits Required
- § 3. Application Requirements
- § 4. Display & Duration
- § 5. Record of Permits

FEE SCHEDULE

- § 6. Capacity Fee
- § 7. Costs of Connection

CONNECTIONS & DISCHARGES

- § 8. Separate Sewers
- § 9. Re-use of Existing Sewers
- § 10. Construction Methods and Materials
- § 11. Building Sewer Elevation
- § 12. Roof, Surface and Groundwater Connections
- § 13. Connection of Building Sewer to Public Sewer
- § 14. Notification for Inspection
- § 15. Sewer Excavations
- § 16. Drainlayer Requirements

USE OF PUBLIC SEWERS, PRIVATE SEWERS, AND DRAINS

- § 17. Certain Discharges Prohibited
- § 18. Permissible Discharges
- § 19. Temporary Discharge Permits
- § 20. Discharges Categorically Prohibited
- § 21. Discharges Prohibited by Commissioner
- § 22. Commissioner to Control Prohibited Discharges
- § 23. Obligations of Owners
- § 24. Measurement and Test Standards
- § 25. Special Agreements
- § 26. Sewer User Charge System
- § 27. Unpaid Bills - Interest

**ENFORCEMENT**

- § 28. Interference with Sewage Works
- § 29. Trespass
- § 30. Inspection Powers
- § 31. Safety and Indemnification
- § 32. Sewers Easements
- § 33. Notice of Violations Required
- § 34. Fines and Restitution

**GREASE MANAGEMENT PROGRAM**

- § 35. Fat, Oil, and Grease Control

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**§ 1. Definitions**

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

"biochemical oxygen demand (BOD)" - the quantity of oxygen used in the biochemical oxidation of organic matter in a specific time, at a specified temperature, and under specified conditions.

"building drain" - shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning ten (10) feet outside the inner face of the building wall.

"building sewer" - the extension from the building drain to the public sewer or other place of disposal; also called "house connection", "building service", and/or "service connection".

"chemical oxygen demand (COD)" - a measure of the oxygen consuming capacity of inorganic and organic matter present in water or wastewater expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand.

"city official" - means the commissioner or the individual(s) duly appointed by him or her for the performance of any of his or her functions or responsibilities under this ordinance.

"combined sewer" - a sewer intended to receive both sewage and storm (or surface) water.

"commercial sewage waste" - non-toxic, non-hazardous facilities, including but not limited to institutional self-service laundries, and animal holding facilities.

"commissioner" - the commissioner of public works of the city.

"composite sample" - a combination of individual samples of water or wastewater taken at selected intervals, generally hourly, for a specified time period, to minimize the effect of variability of the individual sample. Individual samples may have equal volume or may be roughly proportioned to the flow at time of sampling.

"ccf" - cost per hundred cubic feet.

"department" - the department of public works and parks established by Article 3 of Appendix A of these Revised Ordinances.

"district" - Upper Blackstone Water Pollution Abatement District (UBWPAD).

"drain" - (1) a conduit or channel constructed to carry off, by gravity, liquids other than wastewater, including surplus underground, storm or surface water. It may be an open ditch, lined or unlined, or a buried pipe. (2) in plumbing, any pipe which carries water or wastewater in a building drainage system.

"drainage" - (1) water which has been collected by a drain system and discharged into a natural watercourse. (2) water flowing in a drain, derived from ground, surface, or storm water.

"drainlayer" - a general term applied to one in the business of laying drains and/or sewers from existing public sewers to the building drain of homes, commercial buildings, industrial buildings, and similar structures and properties.

"effluent" - wastewater or other liquid flowing out of a basin, treatment plant, or industrial treatment plant, or part thereof.

"entrails" - the internal parts of animals such as the bowels, guts, and viscera.

"equalization of waste flows" - an averaging of variations in flow and composition of wastewaters from particular sources by an equalizing basin or other means, to provide a flow of reasonably uniform volume and composition prior to the discharge into a public sewer.

"food service facility or facility" - any food service facility that prepares and/or packages food or beverages for sale or consumption, on or off site, with the exception of private residences. Food service facilities shall include, but are not limited to: food courts, food manufacturers, food packagers, restaurants, grocery stores, bakeries, lounges, hospitals, hotels, nursing homes, churches, schools and all other food service facilities not listed above.

"garbage" - solid wastes from the domestic and commercial preparation, cooking, and dispensing of food.

"garbage disposal" - a device that shreds or grinds up food waste materials into smaller portions for discharge into the City's wastewater collection system.

"grab sample" - a single sample of sewage (wastewater).

"gray water" - (1) all of the liquid contained in a grease interceptor that lies below the floating grease layer and above the food solids layer. (2) Any water that has been used in the home, which includes dish, shower, sink, and laundry water, etc. and excludes water from toilets or urinals.

"grease" - means a material either liquid or solid, composed primarily of fat, oil, and grease from animal or vegetable sources. The terms "fats, oils, and grease (FOG)", "oil and grease", or "oil and grease substances" shall all be included within this definition.

"grease hauler" - a licensed septage hauler who collects the contents of a grease interceptor or trap and transports it to an approved recycling or disposal facility. A grease hauler may also provide other services to a food service facility related to grease interceptor maintenance.

"grease interceptor" - a device located underground and outside of a food service facility designed to collect, contain, or remove food wastes and grease from the wastestream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity. Grease Interceptors shall have a minimum of two (2) inspection hatches on the top surface to facilitate inspection, cleaning and maintenance by a grease hauler.

"grease trap" - a device located in a food service facility or under a sink designed to collect, contain, or remove food wastes and grease from the wastestream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity. Traps shall have a removable lid on the top surface to facilitate inspection, cleaning, and maintenance.

"groundwater" - subsurface water occupying the saturation zone, from which wells and springs are fed.

"industrial wastes" - the liquid wastes from industrial manufacturing processes, trade or business, or activity listed in 310 CMR 15.004.

"infiltration" - groundwater that enters the sanitary sewer through defects.

"inflow" - rainwater that enters the sanitary sewer.

"infiltration & inflow (I&I)" - a combination of infiltration and inflow.

"manhole" - an opening in a sewer providing access to the sewer.

"milligrams per liter (mg/L)" - a unit of the concentration of water or sewage (wastewater) constituent. It is 0.001 gram of a constituent in 1,000 milliliters of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analyses.

"natural outlet" - any watercourse, pond, ditch, lake, or other body of surface or groundwater.

"neutralized" - the condition of a solution existing after the reactions of acid or alkali with the opposite reagent until the concentrations of hydrogen and hydroxyl ions in the solution are approximately equal.

"outfall" - the conduit leading to the ultimate disposal area.

"owner, homeowner, or property owner" - shall include any agent of an owner.

"paunch manure" - the waste products of animals still found in the stomach or intestine upon slaughtering.

"PDI" - Plumbing and Drainage Institute.

"person" - any individual, firm, company, corporation, association, society, or group, including; any municipality, public authority or other public instrumentality.

"pH" - the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of seven (7) and a hydrogen ion concentration of  $1.0 \times 10^{-7}$  moles per liter of solution.

"pickling waste" - the wastewater from cleaning of iron, usually containing high amounts of iron and chloride ions in hydrochloric acid.

"plating solution" - a solution of the salts of metals used in metal plating and electroplating, usually an acid or a cyanide base.

"pretreatment" - any treatment of sewage (wastewater) to make it suitable for discharge to a public sewer.

"private sewer" - any sewer not owned and maintained by the city.

"properly shredded garbage" - the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

"public nuisance" - a wrongful act which destroys or deteriorates the property, real or personal, of an indefinite number of persons, or interferes with their lawful use or enjoyment thereof.

"public sewer" - a sewer which is owned and maintained by the city.

"sanitary sewer" - a sewer that carries liquid and water-carried wastes from residence, commercial buildings, industrial plants, and institutions, together with minor quantities of groundwater, storm water, and surface water that are not admitted intentionally.

"sewage" - wastewater from homes, public buildings, commercial or industrial establishments, or any combination thereof, including surface or groundwater that may be present therein.

"sewage treatment plant" - shall mean any arrangement of devices and structures used for treating sewage.

"sewage works" - all-inclusive term for sewage (wastewater) collection, pumping, treatment, and disposal facilities.

"sewer" - a pipe or conduit that carries wastewater or drainage water.

"sewer district" - any community and/or sewer district that is a member of the Upper Blackstone Water Pollution Abatement District.

"sewerage system" - a system of piping, with appurtenances, for collecting and conveying sewage (wastewater) from source to discharge.

"slug" - any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flow during normal operation.

"storm drain" - (sometimes termed "storm sewer") shall mean a sewer which carries storm, surface waters, and/or drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

"suspended solids" - (1) solids that either float on the surface of, or are in suspension in water, wastewater, or other liquids, and which are largely removable by laboratory filtering. (2) the quantity of material removed from wastewater in a laboratory test, as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as the portion of total solids retained by a filter.

"trunk" - refers to a sewer that receives many tributary branches and serves a large service area.

"unpolluted waters" - waters that require no treatment to meet the standards of water quality for discharge into natural outlets.

"wastewater" - the spent water of a community. A combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and/or storm water that may be present.

"watercourse" - a channel in which a flow of water occurs, either continuously or intermittently.

## **PERMIT & APPLICATION REQUIREMENTS**

### **§ 2. Permits Required**

- (a) No unauthorized person shall uncover, make any connections with or any opening into, use, repair, alter, or disturb any public sewer or appurtenance thereof, or any building sewer or other private sewer that connects to a public sewer without a sewer connection permit issued by the commissioner.
- (b) No person shall make any new discharge, or increase the volume or change in the character of any previously permitted discharge, into the public sewers without a discharge permit issued by the commissioner.
- (c) No person shall make a temporary discharge of treated, contaminated groundwater or surface water into the public sewer without a temporary discharge permit issued by the Commissioner.

### **§ 3. Application Requirements**

- (a) Application for permits to construct and/or connect a building sewer or other private sewer to the public sewers of the city shall be made by the owner in writing to the department at least forty-five (45) days prior to the new, increased, or changed discharge and shall be accompanied by the fee established by the commissioner pursuant to chapter two, § 24, hereof. Copies of all applications for permits shall be forwarded to the district. There shall be two classes of this type of permit: (1) for residential and commercial service, and (2) for service to establishments producing industrial wastes. In either case, the owner shall make application on such form as may be furnished by the commissioner. The owner shall supplement the application with any plans, specifications or other information considered pertinent in the judgment of the commissioner.
- (b) Notwithstanding any provision to the contrary, the city shall be exempt from payment of any fee imposed under this chapter of the Revised Ordinances.

### **§ 4. Display and Duration**

- (a) No person shall commence or continue any work involving the laying or repairing of any building or private sewer for which a permit is required by this chapter unless the requisite permit is at the site of the work in the hands of the drainlayer authorized by the owner to perform the work.
- (b) Any permit involving the laying or repairing of any building or private sewer shall be valid for sixty (60) calendar days from the issuance of the permit. If the work to be performed under the permit is not then completed, no further work may be performed without a new permit issued by the commissioner in the same manner as the original permit.

### **§ 5. Record of Permits**

The Commissioner shall keep a complete record, in books made for that purpose, of permits granted, giving the name of the street, the number of the estate if any, the name of the owner, the size, kind, and location of building sewers and other private sewers connected to the public sewers, the name of the drainlayer making the connection, and such other facts in connection therewith as may be important as matters of record.

## FEE SCHEDULE

### § 6. Capacity Fee

- (a) The city council does hereby make the following findings of fact: That, the capacity of the public sewers of the city is inadequate due to the extensive infiltration and inflow invasions of storm waters, groundwaters and drainwaters; that, said lack of capacity results in the discharge of pollutants into the waters of the city and the commonwealth and creates a danger to public health and public nuisance; that, further connections to the public sewer would exacerbate the danger to the public health; that, a total moratorium on sewer connections would not serve the public interest or the citizens of the city, particularly with respect to the shortage of housing accommodations, and; that, those proposing to introduce additional wastewater to the public sewer must bear a portion of the expense of reducing infiltration and/or inflow.
- (b) The commissioner shall grant permits to applicants to connect their private sewers to the public sewers in accordance with this chapter and any other applicable provision of law; provided, however, that the commissioner shall deny all applications for sewer connection permits unless:
- (i) The director of public health certifies in writing to the commissioner that the proposed connection is necessary to eliminate or alleviate an existing or imminent public health nuisance caused by the failure of one or more septic systems and the applicant complies with (b)(ii) below; or
  - (ii) The applicant pays, in addition to the sewer connection permit fee established by the commissioner pursuant to Chapter two, § 24, hereof, a capacity fee based on the number of gallons per day proposed to be introduced by the new connection. The amount of gallons per day to be introduced by the new connection shall be calculated in accordance with the sewage flow estimates contained in subsection (e) herein, or as determined by the commissioner. The capacity fee shall be adjusted each year, on or about July 1, based on the determined City of Worcester Transportation and Treatment (T&T) cost for the previous year
- (c) Notwithstanding the above, the commissioner may refuse to grant any permit for any amount of additional wastewater whenever he or she determines that inadequacies in the design or capacity of the sewer system exist; or that the additional wastewater flow proposed to be introduced into the public sewer by the applicant exceeds the capacity of the public sewer, sewer works, sewage treatment process or equipment, or would otherwise have an adverse effect on the sewer system or the public health. IN support of its request for a permit, the applicant may be required to hire a professional engineer (P.E.) to evaluate impacts on the sanitary sewer and sewer works.
- (d) The fees collected pursuant to this section shall be deposited into a separate account and, after recommendations by the city manager and appropriation by the city council, be expended by the commissioner to pay for the removal of infiltration and inflow, including eliminating illegal connections and improvements to pumping stations.

- (e) For purposes of determining the additional flow to be introduced by any new connection, sewage flow shall be based on the State Environmental Code, Title 5 (310 CMR 15.203).
- (f) For purposes of this section a "bedroom" means any portion of a dwelling, which is so designed as to furnish the minimum isolation necessary for use as a sleeping area. Such area shall not include kitchen, bathroom, dining area, halls, or unfinished cellar; but may include bedroom, den, study, sewing room, or sleeping loft.

#### **§ 7. Costs of Connection**

- (a) Except as set forth in the following subsections (b), (c), (e) and (f), all costs and expense incident to the construction and connection of the building sewer or other private sewer shall be borne by the owner. The owner shall otherwise indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation and connection of the building sewer or other private sewer.
- (b) For any connection, installation, alteration, repair or other disturbance of a building sewer or other private sewer connecting into a public sewer, which has been performed under a valid sewer connection permit and was inspected and approved by the city, including, where applicable, a water dye test, the homeowner shall not be personally liable for the cost to rectify any illicit connection between the sanitary and storm drain systems. In no event, however, shall the licensed drainlayer who performed such work be relieved of responsibility, but shall rectify the illicit connection, at its expense, upon order of the commissioner. If the licensed drainlayer shall fail or refuse to rectify the illicit connection, the city shall cause the work to be performed, and the cost thereof shall be assessed against the licensed drainlayer.
- (c) Where an illicit connection between the sanitary and storm drain systems is the result of work performed by a licensed plumber under a validly issued plumbing permit, the homeowner shall not be personally liable for the cost to rectify such illicit connection. In that event, the commissioner shall notify the director of public health, who shall order the licensed plumber to rectify the illicit connection at the licensed plumber's expense. If the licensed plumber shall fail or refuse to rectify the illicit connection, the city shall cause the work to be performed, and the cost thereof shall be assessed against the licensed plumber.
- (d) The provisions of paragraphs (b) and (c) shall apply to all permitted work occurring after March 1, 2000.
- (e) The commissioner is authorized to establish a program to provide limited refunds, not exceeding fifty percent (50%), of the costs incurred by building owners who paid to rectify an illicit connection that was installed prior to March 1, 2000. Any such program established hereunder shall conform to the following minimum requirements, and such other requirements as the commissioner deems advisable and not inconsistent herewith.

- (i) Refunds shall be available only to a current property owner who paid for the prior repair work; and
  - (ii) Applicants for refunds must provide proof of payment to a Worcester licensed drainlayer, or a licensed plumber, as the case may be. Furthermore, the owner must provide copies of its documentation from the Commissioner or the Commissioner of public health and code enforcement ordering the owner to eradicate the illicit connection.
  - (iii) The original installation must have been done pursuant to a validly issued sewer connection permit.
- (f) The Commissioner is authorized to establish a program to provide limited refunds, not to exceed fifty percent (50%), of the costs incurred by building owners to rectify any illicit connection made prior to March 1, 2000, which has not been corrected as of March 21, 2000. The licensed drainlayer or licensed plumber, as the case may be, who performed the work shall rectify the illicit connection, at its expense, upon order of the commissioner or the director of public health, as appropriate. If the licensed drainlayer or licensed plumber shall fail or refuse to rectify the illicit connection, the property owner shall cause the work to be performed. Provided the original installation was done pursuant to a validly issued sewer connection permit, the owner may seek partial reimbursement under the program, if any, established pursuant to this subsection.

## **CONNECTIONS & DISCHARGES**

### **§ 8. Separate Sewers**

A separate and independent building sewer shall be provided for every building; except that where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. A manhole shall be constructed at the junction of the front building sewer and the rear building sewer.

### **§ 9. Re-Use of Existing Sewers**

Old building sewers and other private sewers may be used in connection with new buildings or in connection with new public sewer construction, in whole or in part, only when they are found, on examination and test acceptable to the commissioner of public works to meet all requirements of this chapter. Connection to same shall be upstream of any septic tank or cesspool.

### **§ 10. Construction Methods and Materials**

The size, slope, depth, alignment, materials of construction of a building sewer, or other private sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing codes, and other applicable provisions of this chapter, the city and the commissioner.

### **§ 11. Building Sewer Elevation**

The building sewer, whenever possible, shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain may be lifted by an approved means and discharged to the building sewer.

### **§ 12. Roof, Surface, and Groundwater Source Connections**

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement sump pumps, or other sources or surface runoff or groundwater to a building sewer directly or indirectly which in turn is connected directly or indirectly to a public sanitary sewer. The foregoing types of connections shall not be made, directly or indirectly, to the combined sewer, unless approved by the commissioner.

### **§ 13. Connection of Building Sewer to Public Sewer**

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes, and other applicable provisions of this chapter. All such connections shall be made gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the commissioner. The owner shall be responsible for cleaning, repairing, and if applicable, television inspection of the entire length of the building sewer, including any portion lying in the street.

### **§ 14. Notification for Inspection**

The applicant or his authorized agent for the permit for a building sewer or other private sewer shall give timely notice to the commissioner when said sewer is ready for inspection and connection to the public sewer. Television inspection of the completed building sewer may also be required. The connection and television inspection shall be made under the supervision of the commissioner or his or her duly authorized representative.

### **§ 15. Sewer Excavations**

All excavations for a building sewer or other private sewer construction shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the responsible official in charge of such property.

### **§ 16. Drainlayer Requirements**

- (a) No person shall lay any building sewer or other private sewer or make any connection into any public sewer unless such person is duly licensed by the commissioner to lay said sewer. Such person so licensed shall post a form of surety acceptable to the commissioner, in a sum of not less than five thousand dollars (\$5,000), for the faithful performance of such work as he may execute, and to make good any defects in material or workmanship which may appear in any sewer on account of work done by said drainlayer, and to remunerate the city and any person connected to such work for loss or damage occurring in consequence of any act done under any permit granted said drainlayer.

- (b) No drainlayer duly licensed to construct building sewers and other private sewers and to make connections with public sewers shall allow his name to be used by any other person, either for the purpose of obtaining permits or doing any work under his license.
- (c) Any drainlayer violating any of the provisions of this chapter shall, in addition to the general penalty provided for the violation of the provisions of this chapter, forfeit his or her license.

## **USE OF PUBLIC SEWERS, PRIVATE SEWERS, AND DRAINS**

### **§ 17. Certain Discharges Prohibited**

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any public sanitary sewer of the city or to any public sanitary sewer of any member of the district, directly or indirectly. The foregoing types of connections shall not be made, directly or indirectly, to the combined sewer, unless approved by the commissioner.

### **§ 18. Permissible Discharges**

Storm water and all other unpolluted drainage shall be discharged to such drains as are specifically designated as storm drains, combined sewers and drains (with approval) or to a natural outlet approved by the commissioner . Industrial cooling water or unpolluted process waters may be discharged, on approval of the commissioner, to a storm drain, combined sewer and drains or a natural outlet.

### **§ 19. Temporary Discharge Permits**

- (a) No person shall make any temporary connection or otherwise discharge treated, contaminated groundwater or surface water to the public sewer whether through an existing or new connection without first obtaining the permission of the commissioner. In granting such permission the Commissioner shall have authority to set flow requirements, impose restrictions, and/or deny a proposed discharge in order to protect either receiving water bodies or facilities from possible degradation or impairment.
- (b) The owner or his authorized agent shall make application on a form furnished by the commissioner. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the commissioner.
- (c) In addition to any permit and inspection fees established by the Commissioner pursuant to §24 of chapter two of these Revised Ordinances, a sewer use charge shall be levied against the owner or his authorized agent for the temporary discharge of treated, contaminated groundwater or surface water to the public sewer system through either an existing or new connection. The charge shall be based on the metered amount of discharge to the sewerage system, and shall be equivalent to the current effective sewer use charge.

- (d) The owner or his authorized agent shall meter the flow of the discharge on a continuous basis. Said metering devices shall be read monthly by the department. The owner or his authorized agent shall be billed on a semi-annual basis, or more frequently if approved by the commissioner, for all recorded discharges to the sewerage system.
- (e) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the commissioner, upon request, shall have the authority to reduce the assessment of the sewer use fee pursuant to § 26 of this chapter in order to provide additional incentives for the cleanup and redevelopment of contaminated sites, and to assist in the management of groundwater cleanup operations of such sites. Such reductions in the sewer use charges shall be administered in accordance with the following:
  - (i) For an initial period not to exceed three (3) years from the date of issuance of the applicable temporary discharge permit, the sewer use fee for a qualifying groundwater treatment system shall be fifty percent (50%) of the fee otherwise established under § 26.
    - a. Upon demonstrated need, the permittee may receive up to two, one (1) year extensions of reduced fee payments.
  - (ii) The fees established under subparagraph (i) above, shall be determined for a maximum of three (3) one-year periods, maximum discharge rate anticipated for the system during the ensuing year. Under these provisions, the yearly discharge fee shall be calculated and paid in full upon approval of an application to the commissioner for the first year of discharge, and at the one and two year anniversaries of the permit, the permittee may submit a recalculated discharge request using revised flow estimates for the ensuing year.
  - (iii) In order to operate under a temporary discharge permit as a qualified groundwater treatment system, the operator shall provide the commissioner with a copy of the proposed system's approval under the Massachusetts Contingency Plan (310 CMR 40.00).
  - (iv) Once the groundwater treatment system becomes operational, the operator thereof shall provide the Commissioner with monthly monitoring reports containing detailed information on the quality and quantity of system effluent, in accordance with the pertinent regulations of the city of Worcester and the district.

## **§ 20. Discharges Categorically Prohibited**

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;

- (b) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the District's sewage treatment plant's effluent;
- (c) Any waters or wastes having a pH lower than 5.5 or in excess of 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of sewage works;
- (d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metals, sawdust, hair, oyster shells, lobster shells, clam shells, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, fleshing, entrails, paper dishes, cups, milk containers, and similar paper or plastic containers (either whole or ground by garbage grinders), and other similar materials.

**§ 21. Discharges Prohibited by Commissioner**

- (a) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Commissioner that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect in the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance.
- (b) In forming an opinion as to the acceptability of these wastes, the commissioner shall give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
  - (i) any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150° F).
  - (ii) any water or waste containing fats, oils, or grease (FOG) or wax, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two degrees Fahrenheit (32° F) and one hundred fifty degrees Fahrenheit (150° F).
  - (iii) any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be subject to the review and approval of the commissioner.

- (iv) any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (v) any waters or wastes containing iron, chromium, cadmium, copper, zinc, barium, arsenic, silver, mercury, lead, cyanide phosphates, sodium chlorate, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment plant exceeds the limits established by the commissioner for such material.
- (vi) any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established as necessary by the commissioner after treatment of the composite sewage to meet the requirements of the state, federal, and other public agencies or jurisdiction over such discharge to the receiving waters.
- (vii) any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the commissioner in compliance with applicable state or federal regulations.
- (viii) any waters or wastes having a pH lower than 5.5 or in excess of 9.5.
- (ix) materials which exert or cause:
  - a. unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride, sodium sulfate, and ferrous iron compounds);
  - b. excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
  - c. unusual biochemical oxygen demand (BOD), chemical oxygen demand (COD), or chlorine requirements in such quantities as to constitute a treatment problem for the sewage treatment plan;
  - d. unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- (x) waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge of effluent to the receiving waters.
- (xi) Discharge sources in accordance with § 12 and § 17.

## **§ 22. Commissioner to Control Prohibited Discharges**

- (a) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters or wastes contain the substances or possess the characteristics enumerated in the preceding section of this chapter, and which in the judgment of the commissioner, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the commissioner may:
  - (i) reject the waste;
  - (ii) require pretreatment to an acceptable condition for discharge to the public sewers;
  - (iii) require control over quantities and rates of discharge; and/or
  - (iv) require payment of addition fees to cover the added cost of handling and treating the wastes.
- (b) If the commissioner permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the commissioner, and subject to the requirement of all applicable codes, ordinances, and laws.

## **§ 23. Obligations of Owners**

- (a) Grease traps and interceptors shall be provided in accordance with § 35 of this chapter.
- (b) Where pretreatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.
- (c) When required by the commissioner, the owner of any property serviced by a building sewer or other private sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters, and other appurtenances in said sewer to facilitate observation, sampling, and measurement of wastes. Such manhole, when required, shall be located in a safe and accessible place, and shall be installed by the owner so as to be safe and accessible at all times.

## **§ 24. Measurement and Test Standards**

- (a) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association Inc., and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. Sampling shall be carried out by customarily accepted methods to reflect the effect of the constituents of the waters or wastes upon the sewage works and to determine the existence

of hazards to life, limb, and property. The particular analyses involved will determine whether a twenty-four hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, biochemical oxygen demand (BOD) and suspended solids analyses are obtained from twenty-four hour composites of all outfalls, whereas pH measurements are determined from periodic grab samples. Where necessary, equipment shall be provided to allow for automatic sampling and measuring. The aforesaid "Standard Methods for the Examination of Water and Wastewater" shall be maintained in the office of the commissioner and shall be available for public examination at reasonable times.

- (b) All industries discharging into a public sewer shall perform such monitoring of their discharges as the commissioner may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the commissioner. Such records shall be made available upon request by the commissioner and to other agencies having jurisdiction over discharges to the receiving waters.

#### **§ 25. Special Agreements**

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial or commercial concern whereby waters or wastes of unusual strength or character may be accepted by the city for treatment, subject to payment therefore, by the industrial or commercial concern.

#### **§ 26. Sewer User Charge System**

- (c) For the purposes of assuring that each recipient of wastewater collection and treatment of service within the city shall pay a proportionate share of the costs of operation and maintenance of the sewerage works, a user charge shall be levied against all those who discharge wastewater into the public sewer system. The revenue raised must cover at least the following expenses:
  - (i) operation and maintenance costs of the wastewater collection and treatment systems, which costs shall include labor, fuel, utilities, chemicals, supplies, tools, insurance, engineering and service contracts;
  - (ii) administrative and debt service expenses of the systems, including supervisory, clerical, accounting, personnel, legal services, supplies, and general expenses;
  - (iii) replacement or contingency amounts for the systems.
  - (iv) fines and penalties incurred by the city.
- (d) The charge per cubic foot shall be based upon a fraction (which may have the value of 1.0) of the metered amount of water used by each recipient who discharges wastewater into the sewerage system.
- (e) All users of the wastewater systems, including tax-exempt property, will be charged at the same rate per hundred cubic feet (ccf).

- (f) There may be a surcharge to commercial and industrial users when biochemical oxygen demand (BOD), suspended solids (SS) or other pollutant concentrations from a user exceed the range of concentration of these pollutants found in normal domestic wastewater, a surcharge added to the base charge shall be levied using the following formula.

$$Cs = (Bc(B) + Sc(S) + Pc(p)) Vu$$

Where:

Cs = a surcharge for wastewaters of excessive strength.

Vu = volume contribution from a user per unit of time.

Bc = Operation and Maintenance (O&M) cost for treatment of a unit of BOD.

B = concentration of BOD from a user above a base level.

Sc = O&M cost for treatment of a unit of SS.

S = concentration of SS from a user above a base level.

Pc = O&M cost for treatment of a unit of any pollutant.

P = concentration of any pollutant from a user above a base level.

- (g) There shall be a user charge adjustment for large users of water, which users can prove that their fraction of wastewater to water is less than the fraction used. The percentage of reduction shall be based upon the following formula.

$$\frac{X\% - Y\%}{X\%} = \text{percent reduction}$$

Where:

X = the fraction of wastewater to water meter reading.

Y = the fraction of wastewater to water proven by any industry, but not greater than 90%.

- (h) Industries which pay an industrial cost recovery charge will be credited for the amount attributable to the operation and maintenance costs shown on that billing.
- (i) (g) The commissioner shall establish annually a sewer charge. Charges to users shall be levied at the same time as the water use billing.

## **§ 27. Unpaid Bills - Interest**

Bills for sewer use charges remaining unpaid after the due date shall bear interest at the rate of fourteen percent per annum computed from the first day after the due date of said bill and shall be paid on the unpaid balance. An additional charge of five dollars shall be due if a demand notice is issued. Where interest charges are payable, they shall be added to and become a part of the real estate tax bill. Application for abatement of said charge and interest shall be filed with the commissioner in accordance with the procedures and standards delineated by the General Laws, chapter 83, §16E.

## **ENFORCEMENT**

### **§ 28. Interference with Sewage Works**

No person shall maliciously, willfully or negligently, break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works or any other property under the jurisdiction of the commissioner. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

### **§ 29. Trespass**

No unauthorized person shall enter or remain in or upon any land or structure under the jurisdiction of the commissioner. Any person violating this provision shall be subject to immediate arrest under charge of trespass.

### **§ 30. Inspection Powers**

The commissioner and his or her duly authorized agents bearing proper credentials and identification shall be permitted to enter all properties connected with the public sewers for the purposes of inspection, observation, measurement, sampling, and testing, all in accordance with the provisions of this chapter and to the extent permitted by and under the General Laws. They may inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, plating, or other industrial activity that contribute waters or wastes to the public sewers, but shall not order or demand information concerning any patented process or trade secret beyond that necessary to determine the kind, source, and amount of wastewater discharge from the industrial or commercial plant to the public sewers.

### **§ 31. Safety and Indemnification**

While performing the necessary work on private properties referred to in the foregoing section, the commissioner and his or her duly authorized agents shall observe all safety rules applicable to the premises established by the private property owners. Said private property owners shall be held harmless for injury or death to city personnel and the city shall indemnify the private property owner against loss or damage to its property by city personnel and against liability claims and demands for personal injury or property damage asserted against the private property owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the private property owner to maintain safe conditions.

### **§ 32. Sewer Easements**

The commissioner and his or her duly authorized agents bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly acquired easement for sewer purposes, which shall include, but not be limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly acquired easement pertaining to the private property involved.

### **§ 33. Notice of Violations Required**

Any person found to be violating any provision of this chapter, except as expressly provided otherwise, shall be served by the commissioner with written notice that states the nature of the violation and that provides a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

### **§ 34. Fines & Restitution**

- (a) Any person who shall continue any violation beyond the time limit provided for in the foregoing section shall be guilty of a misdemeanor, and on conviction thereof shall be fined in any amount not exceeding three-hundred dollars (\$300.00) for each violation and shall be liable to the city for any expense, loss, or damage suffered by the city by reason of such offense.
- (b) Each day in which any such violation shall continue shall be deemed a separate offense.

### **GREASE MANAGEMENT PROGRAM**

### **§ 35. Fat, Oil, and Grease Control**

(a) Purpose: This section establishes uniform maintenance and monitoring requirements for controlling the discharge of grease from food service and other facilities discharging into the city's wastewater collection system and commercial grease haulers. The objectives of this section are:

- (i) to prevent the introduction of excessive amounts of grease into the wastewater collection system.
- (ii) (ii) to prevent clogging or blocking of the city's sewer lines due to grease build-up causing backup and flooding of streets, residences, and commercial or industrial buildings.
- (iii) (iii) to implement a procedure to recover the costs incurred in cleaning and maintaining sewer lines and disposing of grease blockages,
- (iv) (iv) to implement a procedure to recover costs for any damage incurred by the city caused by grease blockages resulting in the flooding of streets, residences, or commercial and industrial buildings.
- (v) (v) to establish administrative review procedures and reporting requirements.

(b) Applicability: The provisions of this section shall apply to all existing food service facilities that are located within the municipal boundaries of the city and to all food service facilities that begin operations within the municipal boundaries of the city on or after the effective date of this section. The provisions of this section shall also apply to all grease haulers providing service to any food service facility located within the city.

(c) Grease Traps and Interceptors

(i) Requirements: All food service facilities are required to have a grease trap or grease interceptor. The requirements in this section are in addition to any applicable requirements of the Uniform State Plumbing Code (248 CMR 10.00) and the State Environmental Code, Title 5 (310 CMR 15.230).

(1) New Facilities On or after the effective date of this section, food service facilities which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist, shall be required to install, operate, and maintain a grease interceptor or grease trap, if permissible, according to the requirements contained in this section. Grease interceptors or grease traps shall be installed and permitted prior to the issuance of a certificate of occupancy.

(2) Existing Facilities For the purposes of sizing and installation of grease interceptors, all food service facilities existing within the city prior to the effective date of this section shall be permitted to operate and maintain existing grease interceptors or grease traps, if permissible, provided their grease interceptors or grease traps are in efficient operating condition and comply with the requirements of this Section.

On or after the effective date of this section, the city shall require an existing food service facility to install, operate, and maintain a new grease interceptor or trap that complies with the requirements of this section or to modify or repair any noncompliant plumbing or existing interceptor or trap within ninety (90) days of written notification from the city when any one or more of the following conditions exist.

(A) The facility is found to be contributing oils and grease in quantities sufficient to cause line stoppages or necessitate increased maintenance of the wastewater collection system.

(B) The facility does not have a grease interceptor or trap.

(C) The facility has an undersized, irreparable or defective grease interceptor or trap.

(D) Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a plumbing permit to be issued by the city.

(E) The existing facility is sold or undergoes a change of ownership.

(F) The existing facility does not have plumbing connections to a grease interceptor or trap in compliance with the requirements of this section.

(G) The facility has not operated as a food service facility for 12 consecutive months prior to receiving Food Service Permit.

- (ii) Plumbing Connections: Grease interceptors or traps shall be located in the food service facility's lateral sewer line between all fixtures which may introduce grease into the sewer system and the connection to the city's wastewater collection system. Such fixtures shall include but not be limited to, sinks, dishwashers, garbage disposals, automatic hood wash units, floor drains in food preparation and storage areas, and any other fixture which is determined to be a potential source of grease. Wastewater from sanitary facilities and other similar fixtures shall not be introduced into the grease interceptor or trap under any circumstances.
  
- (iii) Grease Traps: Grease traps shall be prohibited for new food service facilities, except for those facilities where inadequate space is available for the installation of a grease interceptor. Approval of the installation of a grease trap in lieu of a grease interceptor at a new food service facility shall meet the following criteria:
  - (1) Trap design and location Grease traps shall conform to the standards in the Plumbing and Drainage Institute (PDI) Standards G101. Grease traps shall be installed in strict accordance with the manufacturers' instructions. Grease traps shall be equipped with a cover that can be opened for inspection and sampling and a mechanism for a secure closing.
  - (2) Trap capacity The capacity of the grease trap shall be related to the flow rate as indicated in Table 1 of the PDI Standard G101 document.
  - (3) Flow-through rate Flow-through rates shall be calculated in accordance with the procedures in the PDI Standard G101.
  - (4) Flow control device Grease traps shall be equipped with a device to control the rate of flow through the unit. The rate of flow shall not exceed the manufacturers' rated capacity recommended in gallons per minute for the unit.
  - (5) Particle Separator Grease traps shall be equipped with a device, prior to the grease trap, to control the amount of solids through the unit.
  - (6) Venting The flow-control device and the grease trap shall be vented in accordance with the local and state plumbing codes.

- (7) Inspection, cleaning, and maintenance Each food service facility shall be solely responsible for the cost of trap installation, inspection, cleaning and maintenance. Each food service facility may contract with a grease hauler for cleaning services or it may develop a written protocol and perform its own grease trap cleaning and maintenance procedures, which must be approved by the department. Cleaning and maintenance must be performed when the total volume of captured grease and solid material displaces more than 25% of the total volume of the unit. Each food service facility shall determine the frequency at which their grease trap shall be cleaned, but all grease traps shall be opened and inspected, at least once per week, and cleaned and maintained at least once per month.
- (8) Inspection Grease traps shall be inspected by a city official, as necessary, to assure compliance with this section and to assure proper cleaning and maintenance schedules are being followed.
- (9) Repairs The food service facility shall be responsible for the cost and scheduling of all repairs to its grease trap(s). Repairs required by a city official shall be completed within 90 calendar days after receipt of the written notice of required repairs, unless the city approves a different schedule in writing.
- (10) Disposal Grease and solid materials removed from a grease trap shall be disposed of in a proper disposal container that will prevent its discharge during storage and transportation to a solid waste facility. The name and location of the disposal facility shall be verified by the food service facility, which shall be responsible for obtaining such information from the grease hauler.
- (11) Record keeping Each food service facility shall maintain a bound logbook in which a record of all grease trap maintenance is entered, including the date and time of the maintenance, amount of grease present, details of any repairs required and dates of repair completion and any other records pertaining to the grease trap. This logbook shall be made available for review upon request by the city official. Each food service facility shall also maintain a file on site which contains the following information:
- A. the (as-built) drawings of the plumbing system for new or renovated buildings and (if available) for existing buildings
  - B. records of inspections
  - C. copies of annual reports (submitted with Food Service Permit)
  - D. receipts (pumping, maintenance, repairs, etc.)
  - E. log of pumping activities
  - F. log of maintenance activities
  - G. grease hauler information
  - H. disposal information (including site name and location of disposal facility obtained from grease hauler)

I. monitoring data (including amount of grease present during inspection)

The file shall be available at all times for inspection and review by the city official.

- (iv) Grease Interceptors: Grease interceptors shall be installed at all new food service facilities except where physical space is limited as described in subsection (c)(iii), above. All new and existing grease interceptors shall meet the following criteria:
- (1) Interceptor design and location Grease interceptors shall have a minimum of two compartments and shall be capable of separation and retention of grease and storage of settled solids. Interceptor design shall conform to the requirements of the State Environmental Code, Title 5 (310 CMR 15.230), Pretreatment Units - Grease Traps, and the interceptors shall be PDI certified. A control manhole over each compartment for monitoring purposes shall be required and installed at the owner/operators sole expense. Covers shall have a gas tight fit. The grease interceptor shall be designed, constructed and installed for adequate load-bearing capacity. Flow control devices shall be required where the water flow through the interceptor may exceed its rated flow. Interceptors shall be installed in a location outside of the building, which provides easy access at all times for inspections, cleaning, and proper maintenance, including pumping.
- (2) Interceptor capacity Grease interceptor capacity calculations shall be performed by each food service facility based on size and type of operation in accordance with State Environmental Code, Title 5 (310 CMR 15.230), Pretreatment Units - Grease Traps. Grease interceptors shall have a minimum depth of four feet and a minimum capacity of 1,000 gallons for any one unit, and shall have sufficient capacity to provide at least a 24-hour detention period for all kitchen flow. Where sufficient capacity cannot be achieved with a single unit, installation of grease interceptors in series is required. Interceptor capacity calculations shall be approved by the city official prior to the installation of the interceptor(s).

The capacity of the grease interceptor required for food manufacturing or processing facilities which are not covered by the State Environmental Code, Title 5 (310 CMR 15.230) shall be approved by the city official according to the mass and type of food prepared, the wastewater volume produced from food preparation or manufacture, total hours of operation per day and a load factor depending on the installed equipment.

- (3) Inspection, pumping, and maintenance Each food service facility shall be responsible for the costs of installing, inspecting, pumping, cleaning, and maintaining its grease interceptor. All food service facilities that have grease interceptors shall utilize a licensed septage hauler who has been approved by the city for pumping services. Pumping services shall include the initial complete removal of all contents, including floating materials, wastewater, and bottom sludges and solids from the interceptor. The return of gray water back into the grease interceptor from which the wastes were removed is allowable, provided that grease and solids are not returned to the interceptor and further provided that the licensed grease hauler has written authorization from the food service facility to return the gray water. Grease interceptor cleaning shall include scraping excessive solids from the walls, floors, baffles and all pipework. The licensed grease hauler shall wait at least 20 minutes to allow for inspection of the interceptor bottom and to allow for the interceptor waste to separate in the truck tank before attempting to re-introduce the gray water to the interceptor. It shall be the responsibility of each food service facility to inspect its grease interceptor during the pumping procedure to ensure that the interceptor is properly cleaned out and that all fittings and fixtures inside the interceptor are in working condition and functioning properly.
- (4) Interceptor pumping frequency Each food service facility shall have its grease interceptor(s) inspected at least once a month and pumped at least every three (3) months. There shall be a minimum period of eight (8) weeks between each required pumping. In addition to required quarterly pumping, each food service facility is required to pump its grease interceptor whenever one of the following conditions occurs:
- A. When the floatable grease layer exceeds six inches (6") in depth as measured by an approved dipping method, or;
  - B. When the settleable solids layer exceeds eight inches (8") in depth as measured by an approved dipping method or;
  - C. When the total volume of captured grease and solid material displaces more than 25% of the capacity of the interceptor as calculated using an approved dipping method, or;
  - D. When the interceptor is not retaining/capturing oils and greases, or the removal efficiency of the device, as determined through sampling and analysis, is less than eighty percent (80%).
- (5) Inspection Grease interceptors shall be inspected by a city official, as necessary, to assure compliance with the requirements of this section and to determine if proper cleaning and maintenance schedules are being adhered to.

- (6) Repairs Each food service facility shall be responsible for the cost and scheduling of all repairs to its grease interceptor(s). Repairs required by a city official shall be completed within 90 calendar days after receipt of the written notice of required repairs, unless the city approves a different schedule in writing.
- (7) Disposal Wastes removed from each grease interceptor shall be disposed of at a facility permitted to receive such wastes or at a location designated by the city for such purposes. Neither grease nor solid materials removed from interceptors shall be returned to any grease interceptor, private sewer line, or to any portion of the city's wastewater collection system or any other facility without prior written permission from the commissioner. The name and location of the disposal facility shall be verified by the food service facility, which shall be responsible for obtaining such information from the grease hauler.
- (8) Record keeping Each food service facility shall maintain a bound logbook in which a record of all interceptor maintenance is entered, including the date and time of the maintenance, amount of grease present, details of any repairs required, dates of repair completion and any other records pertaining to the interceptor. This logbook shall be made available for review upon request by the city official. Each food service facility shall also maintain a file on site which contains the following information:
- A. the (as-built) drawings of the plumbing system for new or renovated buildings and (if available) for existing buildings
  - B. records of inspections
  - C. copies of annual reports (submitted with Food Service Permit)
  - D. receipts (pumping, maintenance, repairs, etc.)
  - E. log of pumping activities
  - F. log of maintenance activities
  - G. grease hauler information
  - H. disposal information (including site name and location of disposal facility obtained from grease hauler)
  - I. monitoring data (including amount of grease present during inspection)

The file shall be available at all times for inspection and review by the city official.

- (v) Interceptor additives Any chemicals, enzymes, emulsifiers, live bacteria or other grease cutters or additives shall be approved by the commissioner prior to their use by the food service facility or the grease hauler. MSDS sheets and any other applicable information concerning the composition, frequency of use and mode of action of the proposed additive shall be sent to the city together with a written statement outlining the proposed use of the additive(s). Based upon the information received and any other information solicited from the potential user or supplier, the city shall permit or deny the use of the additive in writing. Permission to use any specific additive may be withdrawn by the city at any time.

- (vi) Alternative grease removal devices or technologies Alternative devices and technologies such as automatic grease removal systems shall be subject to written approval by the Commissioner prior to installation. Approval of the device shall be based on demonstrated (proven) removal efficiencies and reliability of operation. The City may approve these types of devices depending on manufacturers specifications on a case-by-case basis. The food service facility may be required to furnish analytical data demonstrating that grease discharge concentrations to the city's wastewater collection system will not exceed the limitation established in § 21 (b)(ii).
- (d) Food Service Facility Reporting
  - (i) Reporting requirements for food service facilities All food service facilities shall be required to submit maintenance and cleaning reports and other documentation of grease traps/interceptors as required in the city's *Application for Permit to Operate a Food Establishment*.
  - (ii) Annual reports of record keeping information shall be furnished with Food Application Renewals.
- (e) Inspections
  - (i) Entry Each food service facility shall allow the city official and other duly authorized employees or agents of the city bearing proper credentials and identification access at all reasonable times to all parts of the premises for the purpose of inspection, observation, photographing, records examination, measurement, sampling, and testing in accordance with the provisions of this Section. The refusal of any food service facility to allow the city official entry to or upon the facility's premises for purposes of inspection, sampling effluents, or inspecting and copying records, or performing such other duties as required by this section shall constitute a violation of this section.
  - (ii) First-time inspections The city official shall inspect food service facilities on both an unscheduled and unannounced basis or on a scheduled basis to verify compliance with the requirements of this section. All food service facilities shall be inspected. Each food service facility will be inspected a first time by the city to collect information about the facility's grease traps/interceptor. During the inspection, information will be verified and the grease interceptor or trap will be inspected. Inspections shall also include all equipment, food processing, and storage areas and shall include a review of the processes that produce wastewater discharged from the facility through the grease interceptor/trap. The city official shall also inspect the interceptor/trap maintenance logbook and file, other pertinent data, the grease interceptor/trap and may check the level of the interceptor/trap contents and/or take samples as necessary. The city official shall record all observations in a written report.
- (f) Administrative enforcement and abatement
  - (i) No Further Action Required If all information is verified and the grease interceptor or trap is of proper type/size and in proper working condition in accordance with the provisions of this section, no further action will be required.

- (ii) Written Notice If the grease interceptor or trap requires any maintenance, repairs, replacement, or corrections, the city official shall provide a written notice of violation within five (5) days of inspection. The food service facility shall have ninety (90) calendar days to correct all deficiencies identified by the city. Failure to do so may result in the suspension of the facility's Permit to Operate a Food Establishment.
- (iii) Access Each food service facility shall provide clear access to its grease trap or interceptor for inspection and maintenance. Each food service facility shall have the necessary tools and/or equipment onsite and within clear view of grease traps to allow for quick access in the event of an emergency or for inspections. Upon the request of the city official, a representative from the food service facility shall open its grease trap and/or interceptor for inspection by the city official.
  - (1) Notice of Violation A Notice of Violation (NOV) shall be issued to a food service facility for any one or more of the following reasons:
    - A. Failure to properly maintain the grease interceptor or trap in accordance with the provisions of this section.
    - B. Failure to report significant changes in operations, or wastewater constituents and characteristics.
    - C. Failure to maintain a file of records on site at all times.
    - D. Failure to provide logs, files, records, or access for inspection or monitoring activities.
    - E. Any other failure to comply with the requirements of this section.
    - F. Discharge of grease into the sewer system in excess of 100 mg/L or resulting in sewer blockage.
- (iv) Notice of Violation Response Any food service facility issued a notice of violation shall respond to the Public Health Division in writing (ATTN: GREASE PROGRAM DEPT.) within fourteen (14) calendar days of receipt of the notice of violation and submit information describing how the noncompliance occurred and what steps shall be taken to correct the deficiencies and/or prevent the re-occurrence of the noncompliance. Requirements for submittal shall include maintenance records, plans for installation or upgrade of grease interceptors, including time frames for preparation of plans, acquisition of necessary equipment, initiation of construction (including time for permit approval, where required), completion of construction, and a date for achievement of final compliance with this section
- (v) The food service facility shall have ninety (90) days from the Notice of Violation to perform corrective work. Once corrective actions have been made, the food service facility shall contact (within 90 days of notice of violation) the Public Health Division in writing (ATTN: GREASE PROGRAM DEPT.). The city shall perform a re-inspection to confirm that all deficiencies have been corrected.

- (vi) Time-Extension If the food service facility cannot complete the required repairs or maintenance within ninety (90) days from the Notice of Violation to perform corrective work, the food service facility may apply for a one-time extension. The facility must provide proof that a "good faith effort" was made to contact/schedule a contractor to perform work. The time extension procedure shall be as follows:
- (1) The food service facility shall submit an application for a time extension on a form provided by the city along with the appropriate application fee identified in the city's Fee Schedule.
  - (2) The application shall include proof that a "good faith effort" was made to contact/schedule a contractor to perform work.
  - (3) The application shall include the next date and time the facility intends to have the corrective work completed.
- (vii) Re-inspections The city official shall re-inspect food service facilities which received deficiency notices after the original inspection. The city official shall inspect any repairs or other deficiencies and shall provide written notice of compliance or non-compliance as the case may be. In the event that the food service facility has returned to compliance with all of the deficiencies, there shall be no further action required. If the facility is not in compliance at the second inspection, the city official shall provide a written notice of suspension proceedings of the Permit to Operate a Food Establishment.
- (viii) Suspension Proceedings The food service facility shall be required to attend a hearing before the Director of Public Health and will be allowed to dispute the notice to suspend the Permit to Operate a Food Establishment. The Director of Public Health shall determine if the food service facility's Permit to Operate a Food Establishment shall be revoked or whether to allow the establishment to operate with conditions. The food service facility will not be allowed to operate without a valid Permit to Operate a Food Establishment.
- (ix) Re-apply for Permit to Operate a Food Establishment The food service facility shall be required to re-apply for a Permit to Operate a Food Establishment once this permit has been revoked by the Director of Public Health. The food service facility shall provide proof that all previous violations have been corrected and shall be subject to a re-inspection by the city prior to permit approval.

**In City Council** **November 29, 2005**  
**Passed to be ordained by yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
*David J. Rushford*  
**City Clerk**

**Amendment 8755**

**AN ORDINANCE RELATIVE TO ABANDONED SHOPPING CARTS**

Be it ordained by the City Council of the City of Worcester as follows:

Chapter Nine of the Revised Ordinances of 1996 is hereby amended by inserting after section fourteen thereof a new section, section fifteen, as follows:

§ 15 Abandoned Shopping Carts

(a) INTRODUCTION

Commercial establishments, for the convenience of their customers, provide shopping carts. However, they often end up being abandoned on streets (public and private), sidewalks, in public parks and cemeteries and other public property other than that of the commercial establishment. When this happens, the carts constitute a hazard and a nuisance. Municipalities have tried a number of approaches to combat this problem in an attempt to keep carts on the respective premises. Legislation is enacted to require shoppers to promptly return the cart; to declare abandonment of carts unlawful; to require that carts are permanently identified, including the name of the establishment, the address and telephone number; to require that signs are posted, stating that it is illegal to remove carts from the premises; and to require that no carts can remain unsecured in the parking lot after business hours. Furthermore, the City of Worcester is authorized to impound abandoned carts. The establishment, upon payment of a fee, may retrieve them and any unclaimed carts become the property of the City.

(b) LEGISLATIVE INTENT

The City Council of the City of Worcester finds and declares that the unlawful taking, misuse and abandonment of shopping carts and similar conveyances constitute a hazard to the health, safety and general welfare of the populace of the City adversely affecting the legitimate conduct of business in the City of Worcester and constitute a nuisance detrimental to individual neighborhoods and the community at large. The purpose of this Ordinance is to reduce the incidences of unlawful taking, misuse and abandonment of these devices through reasonable safeguards, by discouraging and preventing their removal from the property of the owner and by the establishment of penalties for violations of this Ordinance.

(c) DEFINITIONS

As used in this Ordinance, the following words and terms shall have the meanings indicated. The meaning of all other terms and words not specifically defined shall be their generally accepted definition:

**ABANDONED:** The leaving, discarding, dumping or placing of private property, which shall include shopping carts, in a public place other than the place of the person who makes the shopping cart available to the public.

DPW&P: The city of Worcester Department of Public Works and Parks, or its successor.

ESTABLISHMENT: A person owning, making available or having control of a place where shopping carts are utilized; the place of a person owning, making available or where shopping carts are utilized.

LOGO: A name, symbol, or trademark designed for easy and definite recognition.

OWNER: The owner of an establishment if it is owner-operated or the manager of an establishment if it is not owner-operated.

PERSON: An individual, corporation, partnership, association, joint-stock company, society or other legal entity.

PARKING LOT: Any parcel of land owned, leased, or otherwise under the direction and control of the owner and used for parking motor vehicles related to the daily operations of the establishment and shall include the areas of ingress and egress.

PUBLIC PLACE: Any public or private street, sidewalk, public parking lot, public park, public cemetery and other areas publicly owned and operated or a segment thereof, excluding the interior or parking area of any building where a shopping cart was obtained.

REMOVE: To take, transport or otherwise convey from one place to another for any purpose, a shopping cart from the interior (if the building should have no parking area accessible to the public) or parking area of the place of the person who makes the shopping cart available to the public. Removal or transport of a shopping cart by the owner or agent of the owner for repair, shipment to another location or for any other legal purpose shall not constitute a violation of this ordinance.

SECURE, SECURED: To fasten (fastened) together or to a permanent structure such that an individual cart cannot be removed.

SHOPPING CART: A basket, which is mounted on wheels, or a similar device, generally used in a retail establishment by a customer for the purpose of transporting goods of any kind.

CITY: All areas within the geographical limits of the city of Worcester.

(d) REMOVAL OF SHOPPING CARTS FROM PROPERTY OF OWNER PROHIBITED

It shall be unlawful for any person to remove, for any purpose, a shopping cart, with identification markings as set forth in subsection (g) of this ordinance, from the interior of any establishment that does not contain a parking area or from the parking area of any establishment where a shopping cart was obtained. The possession of a shopping cart so marked by a person, other than the owner or agent of the owner, in a place other than that from which the shopping cart was legally made available to the public shall constitute a presumption that such person did unlawfully remove such shopping cart from the premises of the owner. Whoever violates this subsection is subject to penalty as set forth in subsection (1)(1).

(e) CARTS IN PARKING LOTS AFTER BUSINESS HOURS

No establishment shall allow any shopping carts to remain unsecured in its parking lot after business hours. Any establishment that is found to have failed to secure all shopping carts in its parking lot after business hours shall be in violation of this section and is subject to penalty as set forth in subsection (1)(2).

(f) ABANDONING SHOPPING CARTS PROHIBITED

It shall be unlawful for any person who obtains possession of a shopping cart from an establishment to leave or abandon the shopping cart in any public place other than the property of the establishment. Any person found in violation of this subsection is subject to penalty as set forth in subsection (1)(3).

(g) IDENTIFICATION MARKINGS REQUIRED

Every establishment, regardless of its size or the number of shopping carts on its premises, shall mark or cause to be marked any and all shopping carts in a conspicuous and permanent manner with the name of and/or company logo, the address and telephone number of the establishment from which it was made available or permitted to be utilized. The markings required by this subsection shall be affixed within 90 days of the adoption of this ordinance. Such identification shall be in the form of a waterproof tag or imprint securely affixed to the frame of the shopping cart or in some other equally noticeable and permanent manner. Upon expiration of this ninety-day period, any establishment with shopping carts not affixed with the identifying markings required by this subsection shall be in violation of this subsection and is subject to penalty as set forth in subsection (1)(4).

(h) POSTING OF SIGNS REQUIRED

Any person owning, making available or having control of a place where shopping carts are utilized, regardless of its size or the number of shopping carts on its premises, shall conspicuously post signs at said establishment, said signs to be posted in the interior of the establishments and in the parking lots of such establishments. The signs shall notify the public that the unauthorized removal of a shopping cart from the premises or parking area and/or the abandonment of a shopping cart is a violation of city ordinance. Such signs shall also list an address and telephone number for returning the shopping cart to the establishment. The signs required by this subsection shall be erected within 90 days of the adoption of this ordinance. The DPW&P, within 15 days of the adoption of this ordinance, shall provide the owner of each such establishment with the wording and form for the required signs, as well as indicate the number of signs that must be posted on each owner's property. The number of signs required will vary by store, depending on the number of entrances and exits and the number of shopping cart corrals in the parking lot. Upon the expiration of this ninety-day period, it shall be a violation of this Ordinance for any person to own, make available or permit shopping carts to be utilized in an establishment without first posting the signs required by this subsection. Whoever violates this subsection is subject to penalty as set forth in subsection (1)(5).

(i) REMOVAL OF SHOPPING CARTS

Abandoned shopping carts are declared to be a nuisance and a hazard.

The commissioner of Public Works and Parks may, without notice, call for the removal, from time to time, of any abandoned shopping cart found in any public place.

1. Any abandoned shopping cart found outside the perimeter of an establishment or its parking lot may be removed and impounded by DPW&P, or an agent thereof. The enforcement personnel removing the cart shall make a written report that identifies himself/herself as well as the date, time and location, and the contents of the cart, if any, at the time of the removal. This report may take the form of a tag attached to the cart; a copy of the report shall be immediately forwarded to the commissioner of Public Works and Parks, to include a description of any cart contents. Any contents will be secured under lock and key at the storage facility.
2. Within a reasonable time but not more than five (5) business days after removal, the commissioner of Public Works and Parks shall notify the owner of the removed cart using the information provided on the identification marking attached pursuant to subsection (g) herein.
  - i. For those establishments that have implemented a theft deterrent system, per subsection (k) herein, there will be no administrative fee and its carts will be returned to the owner free of charge. The owner shall be responsible for retrieving any and all impounded carts from the DPW&P storage facility.
  - ii. If the cart does not have an identification marking then the commissioner of Public Works and Parks may attempt to notify the owner of the removed cart if the identity of the owner of the cart is known and readily discernable. Any notification of removed and impounded shopping carts shall be made in writing and shall include the date of the removal, the location of removal, and the process for the owner's retrieval of the cart.
3. Any cart that does not have the identification marking attached pursuant to subsection (g) herein and which is removed pursuant to these subsections is deemed to be abandoned property and the commissioner of Public Works and Parks may sell any such cart at public auction and the proceeds shall inure to the City of Worcester, or may destroy or otherwise dispose of any such cart.

(j) RETRIEVAL OF SHOPPING CARTS

1. For those establishments that have implemented a theft deterrent system, per subsection (g) of this ordinance for their shopping carts, there will be no administrative fee and its carts will be returned to the owner free of charge. The owner shall be responsible for retrieving any and all impounded carts from the DPW&P storage facility.
2. For those establishments that have not implemented a theft deterrent system, per subsection (k) of this ordinance for their shopping carts, the impounded shopping carts must be redeemed upon payment of the administrative fee of \$50 for each shopping cart so redeemed. Upon payment in full for all carts currently impounded, by company check made payable to "City of Worcester", to the DPW&P assistant commissioner of administration, said impounded carts will be released to a representative of the establishment. It will be the responsibility of the establishment to provide transportation to retrieve its redeemed carts.
3. Shopping carts that are impounded that do not contain the identifying information required by this ordinance, and shopping carts that are not otherwise retrieved promptly, shall be held for a reasonable time at DPW&P's storage facility, such time not to be less than 30 calendar days. During this period, the owning establishment may reclaim these shopping carts, provided that proof of ownership of the shopping carts is produced, and, further, provided that the administrative fee is paid for each shopping cart redeemed.
4. The obligation of the DPW&P to release a shopping cart continues only as follows:
  - i. If no hearing in accordance with subsection (m) herein has been timely and properly requested and the cart has not been retrieved, then the obligation of the commissioner of Public Works and Parks extends only thirty (30) calendar days after notice of removal has been mailed;
  - ii. If a hearing in accordance with subsection (m) herein has been timely and properly requested then the obligation of the commissioner of Public Works and Parks extends only fifteen (15) calendar days after a notice of decision of the commissioner of Public Works and Parks has been made in accordance with subsection (m) herein.
5. Any shopping cart that has not been retrieved by an owner within the time periods contained in this subsection shall be deemed to be permanently abandoned, and the commissioner of Public Works and Parks may, in said commissioner's sole discretion, (i) continue to release such carts to the owner in accordance with this section, (ii) sell such carts at public auction and the proceeds shall inure to the City of Worcester, or (iii) destroy or otherwise dispose of such carts.

6. An owner that does not retrieve a cart and that has not petitioned for a hearing may be subject to additional fines and/or fees which may include a fee, per cart, in the amount of \$25 to dispose of the cart.

(k) MITIGATION REQUIREMENTS

1. Beginning 180 days after the adoption of this ordinance, all establishments that own, make available or have utilized more than 50 shopping carts shall be required to install a system that causes a wheel of the shopping cart to lock when the conveyance is moved near or across an antenna located at the perimeter of the establishment's parking area.
2. Establishments that own, make available or have utilized between 20 and 50 shopping carts shall have the option of installing the system described above or a shopping cart handle lock system deactivated through the introduction of a coin or coins that may be redeemed by the user upon return of the shopping cart.
3. Establishments that own, make available or have utilized less than 20 shopping carts are not subject to the requirements of (1) or (2) above.
4. Establishments, owners or persons that fail to comply with this Section are subject to penalty as set forth in subsection (1)(6) of this ordinance.

(1) PENALTIES FOR OFFENSES

This Ordinance may be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, Chapter 40, §21D. Each day on which any violation exists shall be deemed to be a separate offense. Any fines and/or fees that remain unpaid by an owner for more than twelve (12) months may become liens against the real estate of the establishment. The penalty for each violation of this ordinance shall be as follows:

1. Removal of a shopping cart from the property of the owner: \$25.00
2. Establishment allowing any shopping carts to remain unsecured in its parking lot after business hours: \$100.00 each occurrence
3. Abandoning a shopping cart in any public place other than the property of the establishment: \$25.00
4. Establishment failing to mark its shopping carts as per subsection (g) of this Ordinance: \$100 each occurrence
5. Establishment failing to post signs as per subsection (h) of this ordinance; \$100 each occurrence
6. Establishment failing to implement a shopping cart theft deterrent system within 180 days of the adoption of this ordinance per subsection (k): \$300 each occurrence

(m) APPEAL

1. An owner who has incurred a shopping-cart related fee under this ordinance may obtain a hearing regarding the propriety of the fee by making a written petition to the commissioner of Public Works and Parks for a hearing within fifteen (15) calendar days of receipt of the notice of removal pursuant to subsection (i). The commissioner of Public Works and Parks shall provide written notice to the owner of the date, time and location of the hearing, and the hearing shall be held within thirty (30) calendar days from the date of the hearing request.
2. The commissioner of Public Works and Parks or his or her designee shall act as the hearing officer and the decision resulting therefrom shall be final and subject only to judicial review under M.G.L. c. 30A s. 14.
3. The commissioner of Public Works and Parks shall notify the owner of the decision in writing within thirty (30) calendar days of the hearing.
4. Proceedings for review of the decision of the commissioner of Public Works and Parks may be instituted in any court of competent jurisdiction within the Commonwealth of Massachusetts within thirty (30) calendar days of the date of notice of decision of said commissioner. The commencement of an action shall not operate as a stay of enforcement of said commissioner's decision, but the commissioner of Public Works and Parks, at his or her discretion, may stay enforcement; the reviewing court may order a stay upon such terms as it considers proper as prescribed by M.G.L. c. 30A, s. 14.

(n) SEVERABILITY

If any clause, sentence, paragraph, subdivision, Section or part of this ordinance or the application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this ordinance, or its application to the person or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

In City Council January 31, 2006

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8756**

AN ORDINANCE AMENDING CHAPTER FIFTEEN OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO THE NON-CRIMINAL DISPOSITION OF VIOLATIONS OF THE ABANDONED  
SHOPPING CART ORDINANCE

Be it ordained by the City Council of the city of Worcester as follows:

Chapter fifteen, section 2(b) of the Revised Ordinances of 1996, as most recently amended, is hereby further amended by adding the following new subsection (b)(xxiv):

(xxiv) violations of abandoned shopping cart ordinance, chapter nine, section fifteen:

- (a) Removal of a shopping cart from the property of the owner:  
penalty: \$25.00
- (b) Establishment allowing any shopping carts to remain unsecured in its parking lot after business hours:  
penalty: \$100.00 (each occurrence)
- (c) Abandoning a shopping cart in any public place other than the property of the establishment:  
penalty: \$25.00
- (d) Establishment failing to mark its shopping carts as per subsection (g) of chapter nine, section 15:  
penalty: \$100.00 (each occurrence)
- (e) Establishment failing to post signs as per subsection (h) of chapter nine, section 15:  
penalty: \$100.00 (each occurrence)
- (f) Establishment failing to implement a shopping cart theft deterrent system within 180 days of the adoption of chapter nine, section 15:  
penalty: \$300.00 (each occurrence)

Enforcing persons: Commissioner of Public Works and Parks,  
Commissioner of Health and Human Services.

**In City Council January 31, 2006**

**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
*David J. Rushford*  
**City Clerk**

**Amendment 8761**

AN ORDINANCE RELATIVE TO CERTAIN PERMIT AND INSPECTION FEES TO OPERATE A  
HUNGER RELIEF FOOD SERVICE ESTABLISHMENT

Be it Ordained by the City Council of the City of Worcester, as follows:

*Section 1.* Chapter two of the Revised Ordinances of 1996 is hereby amended by inserting a new section twenty-nine C as follows:

**§ 29C. Hunger Relief Fee Waiver**

(a) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the city manager, upon a recommendation of the commissioner of health and human services, shall have the authority to waive the cost of any permit or inspection for applicants proposing to conduct a qualified emergency food service operation.

(b) For purposes of this section, an emergency food service operation shall meet the following criteria in order to qualify for the fee waiver authorized in paragraph (a):

1. The applicant must be a 26 U.S.C. §501(c)(3) non-profit corporation with a core mission and expressed purpose to alleviate hunger in the community, or a 26 U.S.C. §501(c)(3) faith-based organization customarily engaged in community outreach that includes hunger relief efforts, and

2. The applicant does not charge a fee to the recipients of the food distributed or served pursuant to such operation.

(c) Each application for a fee waiver under this section shall also include a written financial and social services impact statement describing the impact the waiver will have on its operation.

**In City Council February 28, 2006**  
**Passed to be ordained by yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Amendment 8762**

AN ORDINANCE AMENDING CHAPTER FIVE  
SECTION TWENTY-SIX OF THE  
REVISED ORDINANCES OF 1996  
RELATIVE TO SEWER RATES FOR THE ELDERLY

Be it ordained by the City Council of the City of Worcester, as follows:

Chapter 5, § 26 of the Revised Ordinances of the City of Worcester is hereby amended by inserting after subsection (g) the following new subsection as follows:

(h) The sewer use charge for individuals ages 65 years and older who, (1) are owner occupiers of the residences in which they reside and, (2) qualify for the "Clause 41C, Elderly Person, Real Estate Exemption" under state law shall be subject to the exemption set forth in Chapter 7, § 16(e).

In City Council March 28, 2006  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest: David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8763**

AN ORDINANCE AMENDING CHAPTER SEVEN  
SECTION SIXTEEN OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO WATER RATES FOR THE ELDERLY

Be it ordained by the City Council of the City of Worcester, as follows:

Chapter 7, § 16 of the Revised Ordinances of the City of Worcester is hereby amended by deleting paragraph (e) in its entirety and inserting in lieu thereof the following:

(e) The water use charges assessed herein, and the sewer use charges assessed under Chapter 5, § 26, for individuals ages 65 years and older who, (1) are owner occupiers of the residences in which they reside and, (2) qualify for the "Clause 41C, Elderly Person, Real Estate Exemption" under state law shall be automatically exempted up to twenty-five dollars per each three month water and sewer use charges bill. The exemption shall be applied first to the applicable water use charges, and the balance of the twenty-five dollar exemption, if any, shall be applied against the sewer use charges.

In City Council March 28, 2006  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8804**

**AN ORDINANCE AMENDING CHAPTER EIGHT OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO THE REGULATION OF FEEDING  
OR BAITING OF WATERFOWL**

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1

Chapter eight of the Revised Ordinances of 1996 is hereby amended by inserting after section 9A thereof the following new section 9B:

**§ 9B Regulation of Feeding or Baiting of Waterfowl**

(a) No person, except as otherwise provided by the Massachusetts General Laws, shall feed or bait any waterfowl of the family Anatidae (including, but not restricted to ducks, geese, and swans) at any place within the city of Worcester. As used in this ordinance, "feeding" and "baiting" shall mean the placing, exposing, depositing, distributing, or scattering, directly or indirectly, of any shelled, shucked, or unshucked corn, wheat, or other grain, bread, or salt, or any other feed or nutritive substances, in any manner or form, so as to constitute for such birds a lure, attraction, or enticement to, on, or over any areas where such feed items have been placed, exposed, deposited, distributed, or scattered.

(b) Nothing in this ordinance shall be construed to limit the feeding of domesticated waterfowl, as defined by the Division of Fisheries and Wildlife of the Massachusetts Department of Fish and Game, by a farmer, as said term is defined in Section 1A of Chapter 128, on property owned or leased by a farmer, or the feeding of waterfowl or other birds by propagators licensed under Section 23 of Chapter 131 of the General Laws when such waterfowl or other birds are confined in such a manner as may be required pursuant to said Section 23 and any rules and regulations issued under any authority thereof; or the feeding by any person or his agents, invitees or licensees of waterfowl lawfully kept as a pet by such person.

(c) Any person who violates any provision of this ordinance shall be subject to a fine of one hundred dollars (\$100.00) for each offense thereof.

Section 2

Chapter fifteen, §2(b), of the Revised Ordinances of 1996 is hereby amended by inserting after clause (xxiv), the following new clause as follows:

(xxv) violation of chapter 8, Section 9A, regulating the feeding or baiting of waterfowl -

penalty:

first offense .....	\$	25.00
second offense (w/in a calendar year)....	\$	50.00
third offense or subsequent offenses (w/in a calendar year).....	\$	100.00

enforcing persons: director of public health; assistant commissioner of parks.

In City Council April 25, 2006

Passed to be ordained by a yeas and nays vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8811**

AN ORDINANCE AMENDING CHAPTER SEVEN  
SECTION SIXTEEN OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO WATER RATES USE CHARGES

Be it ordained by the City Council of the City of Worcester, as follows:

1. Chapter 7, § 16 of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting in paragraph (c), line 2 thereof, the number "\$2.38" as it appears therein and inserting in lieu thereof the number "2.61."

2. Chapter 7, § 16 of the Revised Ordinances of the City of Worcester is hereby amended by deleting paragraph (e) in its entirety and inserting in lieu thereof the following:

- (e) The water use charges assessed herein, and the sewer use charges assessed under Chapter 5, § 26, for individuals ages 65 years and older who, (1) are owner occupiers of the residences in which they reside and, (2) qualify for the "Clause 41C, Elderly Person, Real Estate Exemption" under state law shall be automatically exempted up to thirty-five dollars per each three month water and sewer use charges bill. The exemption shall be applied first to the applicable water use charges, and the balance of the thirty-five dollar exemption, if any, shall be applied against the sewer use charges.

3. This amendment shall be effective as of July 1, 2006 and shall apply to all bills issued after such effective date in accordance with subsection (f) of § sixteen of Chapter 7 of the Revised Ordinances of 1996.

In City Council June 27, 2006

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8812**

AN ORDINANCE AMENDING CHAPTER FIVE  
SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO SEWER USER CHARGE

Be It Ordained by the City Council of the City of Worcester as follows:

1. Chapter 5, § 26 of the Revised Ordinances, as most recently amended, is hereby further amended by deleting paragraph (g) in its entirety and inserting in lieu thereof the following:

(g) The commissioner shall establish annually a sewer charge. Charges to users shall be levied at the same time as the water use billing.

<u>Sewer User Charge (per ccf)</u>	
Minimum Charge	\$10.00
Basic Rate	\$3.52

2. This amendment shall be effective as of July 1, 2006 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 1996.

In City Council June 27, 2006

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8838**

**AN ORDINANCE RELATIVE TO CERTAIN PERMIT AND  
INSPECTION FEES FOR THE CITY SQUARE PROJECT**

Be it Ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter two of the Revised Ordinances of 1996 is hereby amended by inserting a new section twenty-nine B as follows:

**§ 29B. CitySquare Project Permit Fees**

(a) The city council hereby finds and declares that Worcester Renaissance, LLC, is prepared to invest \$470 million into downtown Worcester for the reconstruction of the former Worcester Center (a.k.a. Worcester Common Outlets) Mall property ("CitySquare Project") by demolishing large portions of the existing buildings, reestablishing the locations of public ways and spaces on and through the Project Property (as hereinafter defined), constructing 1.5 million square feet of new building space consisting of housing, commercial office, medical/clinical space, limited retail space and entertainment venues and renovating portions of the two existing office buildings and the remaining portions of the existing retail space and the existing parking garages (collectively, the "Private Project Elements").

(b) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the fees for construction, building or utility permits issued by the City of Worcester or any department, agency, board or commission thereof, (hereinafter collectively referred to as "permits"), necessary for construction of the development program as stated in the attachment to a certain Memorandum of Agreement dated April 30, 2005 by and between the City of Worcester and Worcester Renaissance, LLC, and Worcester Towers, LLC, shall be aggregated and reduced to two million dollars.

(c) Except as otherwise provided herein, the fee established by this ordinance shall be paid by or on behalf of Worcester Renaissance, LLC, as follows:

(i) Worcester Renaissance, LLC shall make an initial fee payment of \$250,000 on the date that the First Disbursement is paid by the City under and pursuant to the Development Agreement between the City and Worcester Renaissance, LLC for the CitySquare Project (the "General Development Agreement"). Defined terms used in this section (c) shall have the meanings given such terms in the General Development Agreement.

(ii) Worcester Renaissance, LLC shall make a second fee payment of \$750,000 on the earlier of June 15, 2008 or upon the Commencement of the Enabling Work.

(iii) Worcester Renaissance, LLC shall make a third fee payment of \$1,000,000 on the earlier of June 15, 2009, or upon the Commencement of the Parking Garage.

Notwithstanding the foregoing, Worcester Renaissance, LLC shall not be obligated to make the fee payments set forth in Section (c)(ii) and (c)(iii) hereof, if, on or before the date such payment or payments are due, it has given a termination notice to the City in accordance with Section 4.18 of the General Development Agreement. If as a result of such a termination, the Enabling Work does not Commence, the City shall refund to Worcester Renaissance, LLC any payments made in accordance with Sections (c)(i) and (c)(ii) hereof, which refund shall be made not later than thirty (30) days after receipt of written notice from Worcester Renaissance, LLC (i) that the Enabling Work will not Commence and (ii) of termination of the General Development Agreement pursuant to Section 4.18 thereof; provided, however, that the City may deduct from the initial permit fee payment made pursuant to Section (c)(i) hereof, the actual legal costs incurred by the City for direct personnel expenses, excluding legal expenses.

The provisions of this ordinance shall apply to the Construction of the Private Project Elements and the Delegated Public Project Elements.

(d) Fee payments under this ordinance shall be made to the city manager, who shall issue appropriate documentation confirming payment of the fee. Any permit granting department, agency, board or commission of the city shall, upon presentation of such documentation by an applicant seeking a permit relative to the CitySquare Project, process the permit application without payment of additional fees and shall indicate on the permit application the following: "Fee paid pursuant to § 29B, c. 2, R.O. 1996."

(e) Anticipating that Worcester Renaissance, LLC, shall construct and complete the Private Project Elements in phases and that the tenants of Worcester Renaissance, LLC, shall thereafter finish construction of each tenantable space within the CitySquare Project, this permit fee reduction shall apply to any permits necessary for such tenant fit-out but shall expire upon the date of issuance of the first permit for use and occupancy for each such portion of the Project Property (as defined in the General Development Agreement). Notwithstanding the previous sentence, this ordinance shall expire on June 30, 2016 and the fees otherwise then in effect shall apply to any permits issued after such date.

In City Council August 29, 2006

Passed to be ordained by a yea and nay vote of Nine Yeas and No Nays

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8839**

AN ORDINANCE RELATING TO CONTROL  
OF ABANDONDED SHOPPING CARTS

Be it Ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter 9 §15, of the Revised Ordinances of 1996 as amended is hereby further amended by deleting the existing §15(e) and inserting in lieu thereof the following new sub-section (e) as follows:

No establishment shall allow any shopping carts to remain unsecured in its parking lot after the establishment's normal business hours. Any establishment that is found to have failed to secure all shopping carts in its parking lot after the establishment's normal business hours shall be in violation of this section and is subject to penalty as set forth in subsection (1) (2).

Section 2. Chapter 9 §15(e) of the Revised Ordinances of 1996 as amended is hereby further amended by inserting in sub-section (1)(2) after the word "after" the phrase "the establishment's normal" so that the amended phrase shall read "after the establishment's normal business hours."

Section 3. Chapter 9 §15(g) of the Revised Ordinances of 1996 as amended is hereby further amended by inserting in the last sentence of sub-section (g) after the word "subsection" the phrase "while their shopping carts are still on their premises" so that the amended phrase shall read "subsection while their shopping carts are still on their premises shall be in violation of this subsection and is subject to penalty as set forth in (1) (4)."

Section 4.

(i) Chapter 9 §15(k)(1) of the Revised Ordinances of 1996 as amended is hereby further amended by deleting the "." after the term "parking area" and inserting the following phrase: "or other system deemed acceptable by the Commissioner of Public Works and Parks that would prevent the removal of the shopping carts from the premises."

(ii) Chapter 9 §15(k)(2) of the Revised Ordinances of 1996 as amended is hereby further amended by deleting the "." after the term "shopping cart" and inserting the following phrase: "or other system deemed acceptable by the Commissioner of Public Works and Parks that would prevent the removal of the shopping carts from the premises."

Section 5.

(i) Chapter 9 §15(i) of the Revised Ordinances of 1996 as amended is hereby further amended by deleting the existing §15(i) and inserting in lieu thereof the following new sub-section (i) as follows:

Abandoned shopping carts are declared to be a nuisance and a hazard.

The Commissioner of Public Works and Parks may, without notice, call for the removal, from time to time, of any abandoned shopping cart found in any public place. The impounded shopping carts will be transported to the DPW&P storage yard and recycling facility at 1065 Millbury Street or any other storage facility so designated by the Commissioner.

- (ii) Chapter 9 §15(j) of the Revised Ordinances of 1996 as amended is hereby further amended by deleting the existing §15(j) and inserting in lieu thereof the following new sub-section (j) as follows:

For those establishments that have implemented a theft deterrent system, per subsection (k) herein, there will be no impound fee and its carts will be returned to the owner free of charge. The owner shall be responsible for retrieving any and all impounded carts from the DPW&P storage facility.

If a cart does not have an identification marking then the Commissioner of Public Works and Parks may attempt to identify the owner of the cart and store it with other carts, if any, belonging to that owner.

Any cart that does not have the identification marking attached pursuant to subsection (g) herein and which is impounded pursuant to these subsections is deemed to be abandoned property and the Commissioner of Public Works and Parks may sell any such cart at public auction and the proceeds shall inure to the City of Worcester, or may destroy or otherwise dispose of any such cart.

For those establishments that have *not* implemented a theft deterrent system for their shopping carts or are not required to, per subsection (k) of this Ordinance, impounded shopping carts may be retrieved by the establishment upon payment of a \$20 impound fee per cart. Such payments shall be in the form of a store check in the amount of \$20 times the number of carts being retrieved and made payable to the "Department of Public Works and Parks".

All establishments, whether their carts are subject to impound fees or not, shall contact the DPW&P storage facility on a regular basis to determine if any of their shopping carts have been impounded and if so, how many and to schedule a retrieval appointment.

Any shopping cart that has not been retrieved by an owner within forty-five (45) days of the date it was impounded shall be deemed to be permanently abandoned and the Commissioner of Public Works and Parks may, in said Commissioner's sole discretion: (i) continue to release such carts to the owner in accordance with this Section, (ii) sell such carts at public auction and the proceeds shall inure to the City of Worcester, or (iii) destroy or otherwise dispose of such carts.

- (iii) Chapter 9 §15(m) of the Revised Ordinances of 1996 as amended is hereby further amended by deleting the existing §15(l) and inserting in lieu thereof the following new sub-section (l) as follows:

1. An owner who has incurred a shopping cart-related fee under these Sections may obtain a hearing regarding the propriety of the fee by making a written petition to the commissioner of Public Works and Parks for a hearing within fifteen (15) calendar days after retrieval of the impounded carts and payment of the impound fee pursuant to subsection (i). The Commissioner of Public Works and Parks shall provide written notice to the owner of the date, time and location of the hearing, and the hearing shall be held within thirty (30) calendar days from the date of the hearing request.

2. The Commissioner of Public Works and Parks or his or her designee shall act as the Hearing Officer and the decision resulting there from shall be final and subject only to judicial review allowed by law.

3. The Commissioner of Public Works and Parks shall notify the owner of the decision in writing within thirty (30) calendar days of the hearing.

4. Proceedings for review of the decision of the Commissioner of Public Works and Parks may be instituted in any court of competent jurisdiction within the Commonwealth of Massachusetts as allowed by law from the date of notice of decision of said Commissioner. The commencement of an action shall not operate as a stay of enforcement of said commissioner's decision, but the Commissioner of Public Works and Parks, at his or her discretion, may stay enforcement pending the outcome of any appeal as allowed by law.

**In City Council August 29, 2006**

**Passed to be ordained by a yea and nay vote of Nine Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Amendment 8915**

AN ORDINANCE RELATIVE TO CERTAIN PERMIT AND INSPECTION FEES  
FOR THE GRAND PALACE THEATRE PROJECT

Be it Ordained by the City Council of the City of Worcester, as follows:

*Section 1.* Chapter two of the Revised Ordinances of 1996 is hereby amended by inserting a new section twenty-nine D as follows:

§29D. Grand Palace Theatre Project Permit Fees

(a) The city council hereby finds and declares that Worcester Center for Performing Arts, Inc., a not-for-profit corporation, is prepared to undertake an approximately \$22 million renovation and restoration of the former Loew's Poli/Showcase Theater at 2-16 Southbridge Street in downtown Worcester into a first-class, 2,300 seat performing arts center known as the Grand Palace Theatre Project (herein after the "project").

(b) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the fees for construction, building or utility permits issued by the city of Worcester or any department, agency, board or commission thereof, (hereinafter collectively referred to as the "construction permits"), the city manager may waive the fee for such construction permits necessary for construction of the project totaling approximately \$195,000. The proponent of the project shall apply for such waivers to the city manager.

(c) Any permit granting department, agency, board or commission of the city shall, upon presentation by the project proponent of an application for fee waiver approved by city manager process the permit application without payment of fees.

d) This permit fee reduction shall apply to any permits necessary for the construction of project but this permit fee reduction shall expire upon the date of issuance of the first permit for use and occupancy of the premises where the project is located. Notwithstanding the previous sentence, this ordinance shall expire on June 30, 2009 and the fees otherwise then in effect shall apply to any permits issued after such date. Nothing herein can be construed to effect a waiver of any water or sewer use fees for water or sewer services.

In City Council January 2, 2007

Passed to be Ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 8961**

AN ORDINANCE RELATIVE TO WAIVING CERTAIN BUILDING PERMIT FEES FOR CONSTRUCTION  
OF HANDICAPPED ACCESSIBLE RAMPS

Be it Ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter two of the Revised Ordinances of 1996 is hereby amended by inserting a new section twenty-nine D as follows:

**§29E. Handicapped Accessibility Ramp Waiver.**

(a) Notwithstanding the provisions of any ordinance, rule or regulation to the contrary, the city manager, upon a recommendation of the commissioner of health and human services, shall have the authority to waive the fees associated with a building permit application when said permit is specific to the construction of handicapped accessible ramps that are to be constructed voluntarily.

(b) For purposes of this section, construction of handicapped accessible ramps shall meet the following criteria in order to qualify for the fee waiver authorized in paragraph (a):

1. The applicant must be providing gratuitous services to property owners in need of accessibility.

2. The applicant shall provide written documentation that the construction of said handicapped accessible ramps is provided at no cost to the property owner.

(c) Each application for a fee waiver under this section shall also include appropriate documentation confirming construction of a handicapped accessible ramp(s). Any permit granting department, agency, board or commission of the city shall, upon presentation of such documentation by an applicant seeking a permit relative to the waiver of a building permit fee described above, shall process the permit application without payment of fee and shall indicate on the permit application the following: "Fee waived pursuant to §29D, c. 2, R.O. 1996".

In City Council January 30, 2007

Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

Amendment 8965

AN ORDINANCE AMENDING CHAPTER 13 SECTION 37  
OF THE REVISED ORDINANCES OF 1996 RELATIVE TO PARKING OF COMMERCIAL  
VEHICLES, BUSES OR TRAILERS ON RESIDENTIALLY ZONED STREETS

Be it ordained by the City Council of the City of Worcester, as follows:

Chapter 13, § 37 of the Revised Ordinances of the City of Worcester, is hereby amended by deleting paragraph (p) in its entirety and inserting in lieu thereof the following new paragraph (p):

- (p) No person shall park a commercial vehicle, bus or trailer having a gross weight of 11,000 pounds or more on any residentially zoned street where parking is permitted for a period of time longer than one hour between the hours of 1:00 A.M. and 6:00 A.M. of any day, or any time on Sunday, except that such vehicles may be parked for periods in excess of this restriction while actually being loaded or unloaded.

In City Council February 27, 2007  
Passed to be Ordained by a yea and nay vote of Ten Yeas and One Nay.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

Amendment 8988

AN ORDINANCE AMENDING CHAPTER ELEVEN SECTION 8A OF  
THE REVISED ORDINANCES OF 1996  
RELATIVE TO SHOOTING GALLERY LICENSES

Be it ordained by the City Council of the City of Worcester, as follows:

Chapter 11, § 8A of the Revised Ordinances of the City of Worcester is hereby amended by deleting paragraph (h) in its entirety and inserting in lieu thereof the following:

- (h) No person shall engage in target shooting or enter a live fire area unless such person holds a valid firearm identification card or firearms license issued under Massachusetts General Law, chapter 140.

In City Council March 13, 2007  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 9040**

AN ORDINANCE AMENDING CHAPTER SEVEN  
SECTION SIXTEEN OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO WATER RATES USE CHARGES  
(FY 2008)

Be it ordained by the City Council of the City of Worcester, as follows:

1. Chapter 7, § 16 of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting in paragraph (c), line 2 thereof, the number "\$2.61" as it appears therein and inserting in lieu thereof the number "2.74."

2. Chapter 7, § 16 of the Revised Ordinances of the City of Worcester is hereby amended by deleting paragraph (e) in its entirety and inserting in lieu thereof the following:

(e) The water use charges assessed herein, and the sewer use charges assessed under Chapter 5, § 26, for individuals ages 65 years and older who, (1) are owner occupiers of the residences in which they reside and, (2) qualify for the "Clause 41C, Elderly Person, Real Estate Exemption" under state law shall be automatically exempted up to thirty-seven dollars and fifty cents (\$37.50) per each three month water and sewer use charges bill. The exemption shall be applied first to the applicable water use charges, and the balance of the thirty-seven dollars and fifty cent (\$37.50) exemption, if any, shall be applied against the sewer use charges.

3. This amendment shall be effective as of July 1, 2007 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter 7 of the Revised Ordinances of 1996.

In City Council June 12, 2007

Passed to be ordained by a yea and nay vote of Nine Yeas and One Nay.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 9041**

AN ORDINANCE AMENDING CHAPTER FIVE  
SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO SEWER USER CHARGE  
(FY 2008)

Be It Ordained by the city council of the city of Worcester as follows:

1. Chapter 5, § 26 of the Revised Ordinances, as most recently amended, is hereby further amended by deleting paragraph (g) in its entirety and inserting in lieu thereof the following:

(g) The commissioner shall establish annually a sewer charge. Charges to users shall be levied at the same time as the water use billing.

<u>Sewer User Charge (per ccf)</u>	
Minimum Charge	\$10.00
Basic Rate	\$3.97

2. This amendment shall be effective as of July 1, 2007 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 1996.

**In City Council June 12, 2007**

**Passed to be ordained by a yea and nay vote of Nine Yeas and One Nay.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Amendment 9051**

**AN ORDINANCE  
TRANSFERRING THE ADMINISTRATION OF THE ELECTION COMMISSION TO THE CITY CLERK DEPARTMENT**

Whereas, on June 18, 2007, the position of Executive Director of the Board of Election Commissioners has become vacant; and,

Whereas, 2007 is a municipal election year; and,

Whereas, the City Manager has recommended that the administrative and operational support to the Board of Election Commissioners established under Article Seven of the Home Rule Charter would most efficiently be performed by the City Clerk Department; and,

Whereas, the City has filed a Home Rule Petition seeking special legislation which would authorize the City Clerk to provide administrative and operational support to the Board of Election Commissioners thereby eliminating the need for an Elections Commission Division under the jurisdiction of the City Manager; and,

Whereas, in anticipation of the prompt approval of that petition by the Great and General Court and the Governor, the City Manager has submitted this reorganization plan and Ordinance to accomplish this transfer.

Now, Therefore, Be it ordained by the City Council of the City of Worcester, as follows:

§ 1. The Revised Ordinances of 1996 are hereby amended by deleting the entire text of Article Eight of Part Two, Organization of City Agencies, and inserting in lieu thereof the attached new Article Eight of Part Two, Organization of City Agencies, the text of which is attached hereto and incorporated herein by reference.

§ 2. The Revised Ordinances of 1996 are hereby amended by deleting the reference to the Election Commission Division and related text from Article One of Part Two, Organization of City Agencies, and by deleting in its entirety section 11 ("Election Commission Division") of said Article One of Part Two, Organization of City Agencies.

§ 3. The repeal of the Ordinances accomplished by Section One hereof shall not impair any lawful action taken under authority of the Ordinances previously in effect and the adoption of this Ordinance shall be deemed to ratify any action taken prior to the adoption of this Ordinance which would be lawfully authorized under the terms of this Ordinance.

§ 4. Nothing herein shall repeal or impair any executive order, directive or administrative policy issued by the City Manager concerning the administration or operations of the Board of Election Commissioner or any action taken by the City Council concerning the scheduling or conduct of elections.

§ 5. All appropriations previously approved by the City Council for the Election Commissions Division of the Executive Office of the City Manager shall be transferred to the City Clerk Department upon the effective date of this Ordinance.

**Effective Date**

§ 6. This Ordinance shall take effect on June 19, 2007.

In City Council August 14, 2007  
Passed to be Ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Article 8. City Clerk Department**

- § 1. Establishment
- § 2. Function
- § 3. Authorized Positions
- § 4. Head of Department
- § 5. Organization of the Department
- § 6. Duties & Responsibilities
- § 7. Assistant City Clerks
- § 8. City Council Meetings
- § 9. Committee Meetings
- §10. Administration of Elections

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the City Council a department of the City to be known as the "City Clerk Department" ("department").

**§ 2. Function**

It shall be the function of the department to be the official custodian of the City's records, papers and documents, to serve as the clerk of the City Council and its committees, to carry out those duties and responsibilities required by law and to provide administrative and operational support to the Board of Election Commissioners.

**§ 3. Authorized Positions**

The department shall consist of the City Clerk and such other positions as the City Council, with the advice of the City Manager, shall authorize by adoption of the table of authorized positions in the annual City budget, as the same may be amended from time to time.

**§ 4. Head of Department**

The department shall be headed by the City Clerk, who shall be appointed by the City Council.

**§ 5. Organization of the Office**

(a) *Establishment of Divisions.* The office shall be organized into two divisions for the following purposes:

**City Clerk Division** - to carry out those duties and responsibilities required by law of City and town clerks, to serve as the clerk of the City Council and to be the official custodian of the City's records, papers and documents; and;

**Election Commission Division** - to provide administrative and operational support to the board of election commissioners established under Article Seven of the Home Rule Charter.

**§ 6. Duties & Responsibilities**

The City Clerk shall be responsible for the performance of the functions of the department and shall:

- (1) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (2) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the general policies and requirements of the City Manager and chief financial officer;
- (3) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (4) keep to furnish the collector of taxes with an account of any and all assessments made by the City Council relating to streets, sidewalks, sewers and otherwise, as soon as may be after such assessments are made;
- (5) perform such other duties as the City Council may from time to time require;
- (6) annually report in detail in writing, to the City Council all monies received as fees or otherwise during the preceding financial year;
- (7) furnish the justices of the Central District Court, the clerk of the Superior Court for the County of Worcester, the clerk of the Central District Court, the Free Public Library, the Worcester County Library and the chief of police, with attested copies of all Ordinances passed by the City Council;
- (8) keep books in which shall be alphabetically arranged the names of all the streets, highways and sidewalks which now are or may hereafter be accepted or laid out, with the date of such laying out or acceptance, and the width thereof, and all alterations therein from time to time made by the City Council;
- (9) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;

- (10) keep the City Council informed of the activities and needs of the department and provide the City Manager with information developed by the department which would have a material impact on the finances of the City;
- (11) seek the advice of the City Council prior to changing any existing policy or initiating any new program or service;
- (12) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the City Council;
- (13) perform such other tasks and functions as may be prescribed by law or as may be requested by the City Council;
- (14) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the City Manager, the financial procedures established by the City Manager and the City Auditor, the provisions of these revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America;
- (15) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the City Manager and the City Council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (16) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the City Council;
- (17) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the City Council; and,
- (18) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the City Council.

**§ 6. Assistant City Clerks**

(a) The City Council shall appoint two assistant City Clerks on the recommendation of the City Clerk.

(b) In addition to having such powers and performing such duties as may from time to time be prescribed for them by the City Clerk, it shall be the duty of the assistant City Clerks to assist the City Clerk in recording, indexing and certifying mortgages of personal property, assignments of wages and other documents required by law to be recorded, and also to attest documents and perform all other duties pertaining to the office of City Clerk when thereto requested by him or when the office of City Clerk shall be vacant from any cause.

**§ 7. City Council Meetings**

The City Clerk or an assistant City Clerk shall attend all meetings of the City Council. The City Clerk shall prepare a calendar of the agenda for each meeting and keep the official records of all such meetings.

**§ 8. Committee Meetings**

The City Clerk shall notify the members of the council committees of the meetings thereof and, when requested by the chair of any committee, shall perform such other duties as the committee may require. The City Clerk or an assistant City Clerk shall attend each meeting of the several committees of the City Council and shall make a proper record of all the proceedings and the transaction of the business of each meeting.

**§ 9. Administration of Elections**

(a) In addition to exercising the duties and responsibilities of City Clerk, the City Clerk shall also serve as the executive director of the Board of Election Commissioners and in that capacity shall:

- (1) provide administrative and operational support to the Board of Election Commissioners established under Article Seven of the Home Rule Charter;
- (2) perform such duties and responsibilities as may be required or requested by the Board of Election Commissioners in the performance of their duties under Article Seven of the Home Rule Charter, or as provided under Section Sixteen A of Chapter Fifty-One of the General Laws, or as otherwise prescribed to said board by any federal, general or special law;
- (3) coordinate the services authorized by the City Manager of other City departments for the conduct of any election; and,
- (4) administer and keep the records of the Board of Election Commissioners.

(b) The City Clerk may assign such personnel within the City Clerk department to work in the preparation and administration of elections as he or she deems necessary or advisable to properly perform the duties and responsibilities described in subsection (a) above.



Amendment 9072

AN ORDINANCE AMENDING CHAPTER EIGHT  
OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO GRAFFITI ON PRIVATE PROPERTY

Be it ordained by the City Council of the City of Worcester, as follows:

Chapter Eight of the Revised Ordinances of 1996 is hereby amended by inserting after section thirty-six thereof a new section, thirty-seven, as follows:

§ 43. Graffiti on Private Property

(a) *Purpose And Intent.* It is the purpose and intent of this section to eliminate graffiti in the city of Worcester. Graffiti on buildings, walls, signs, and other structures or places or other surfaces causes and contributes to blight within neighborhoods and commercial districts of the city and constitutes a public nuisance. Graffiti impairs public health and safety and degrades the value, condition, or appearance of real or personal property and contributes to the general deterioration of property and business values for adjacent and surrounding property. The purpose of this ordinance is to provide the city with enforcement tools to eliminate graffiti on private property and to impose penalties upon private property owners who fail to remove graffiti from their property in a timely manner. This ordinance is not intended to supersede any existing vandalism and anti-graffiti state laws.

(b) *Definitions.* The following words and phrases, when used in this section, shall have the following meanings:

"*graffiti*" - the intentional painting, marking, scratching, coloring, tagging or other defacement of any property without the consent of the owner.

"*person*" - means any individual, voluntary association of individuals, business, entity, organization whether incorporated or not.

"*owner*" - means any person who owns, manages or controls any property and shall be sufficiently identified by the name and address appearing in the records of the city assessor.

"*property*" - means any land, building, structure of real property, including any fixtures attached thereto, or any personal property located within the city of Worcester.

(c) *Removal Of Graffiti.* It is the responsibility of the owner of the property to which graffiti has been applied to promptly remove the graffiti. No owner of property shall allow graffiti to remain on the property for a period of seven days after service of notice of the graffiti from the commissioner of the department of health and human services, or his or her designee. The notice shall contain the following information:

5. The street address and description of the property sufficient for identification of the property;
6. A statement that the property has been declared a public nuisance because of the presence of graffiti on the property;
7. A concise description of the conditions on the property that have lead to the determination that the property is a public nuisance;
8. A statement that the graffiti shall be removed from the property within seven days from service of the notice and that if the owner fails to remove the graffiti within the time frame specified that the owner will be in violation of this ordinance and subject to penalties described therein.

(d) *Violations.* This Ordinance may be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, Chapter 40, §21D. Any person in violation of this ordinance shall be punished by a fine of not more than twenty-five dollars (\$25.00). Each day on which a violation exists shall be deemed to be a separate offense. The commissioner of the department of health and human services or his or her designee may seek an injunction from a court of competent jurisdiction to restrain any violation of this ordinance. This Ordinance shall not be enforced against the city or the Commonwealth of Massachusetts, its authorities, departments, or agencies.

**In City Council    October 16, 2007**

**Passed to be ordained by a yea and nay vote of Nine Yeas and No Nay.**

**A Copy.    Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

Amendment 9073

AN ORDINANCE AMENDING CHAPTER FIFTEEN  
OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO ENFORCEMENT OF THE GRAFFITI ORDINANCE

Be It Ordained by the City Council of the city of Worcester as follows:

Chapter 15, Section 2(b), of the Revised Ordinances of the City of Worcester (1996) is hereby amended by inserting the following new subsection at the conclusion thereof as follows:

(xxvii) Violation of any provision of the Graffiti Ordinance, Revised Ordinances chapter 8, § 43.

Penalty: noncriminal disposition penalty - \$25.00

Enforcing persons: commissioner of the department of health and human services; any other official or employee of the city designated in writing by the city manager.

In City Council October 16, 2007

Passed to be ordained by a yea and nay vote of Nine Yeas and No Nay.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

AN ORDINANCE AMENDING CHAPTER EIGHT  
OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO NUISANCES

Be it ordained by the City Council of the City of Worcester, as follows:

Chapter Eight of the Revised Ordinances of 1996 is hereby amended by inserting after section forty-one thereof a new section, forty-two, as follows:

**§ 42. Nuisances on Property**

(a) *Purpose and Intent.* It is the purpose and intent of this section to eliminate nuisances in the City of Worcester. Nuisances, such as dilapidated buildings, overgrowth, debris, trash, stagnant pools of water, property having defective weather protection and vacant or abandoned buildings, cause and contribute to blight within neighborhoods and commercial areas of the city and adversely affect the property values for adjacent and surrounding property. Such nuisances on property also impair the public health and safety. This ordinance is intended to further the objectives of and to act in concert with any existing state or local laws.

(b) *Property Standards.* All property in the city of Worcester shall be maintained in the accordance with the following property standards:

(1) *General.* All property, whether occupied or vacant, shall be maintained in good repair and a safe and sanitary condition as provided herein, so as to not cause or contribute to the creation of a hazardous or blighted area or to affect adversely the public health and safety or property value of adjacent or surrounding property.

(2) *Overgrowth.* All property shall be maintained free of vegetation over twelve (12) inches high that is or may reasonably become infested with rodents, vermin, or other animals, conceal pools of stagnant water, or create a fire safety hazard. All property shall be kept free of overgrown, decayed, dead, or hazardous trees, shrubs, or any other vegetation that poses a hazard to the health and safety of any person in the vicinity of the property, including any persons traveling on any portion of any public way, or any surrounding property.

(3) *Structures.* All structures, including any buildings, fences, storage sheds, or any element thereof shall be maintained in a structurally sound condition and in good repair, including proper weather protection and waterproofing, and shall be maintained in a condition so as to not cause or contribute to creation of a fire safety hazard. All property shall be maintained free of extensive peeling, flaking, or chipped paint. All property with siding shall be maintained in a weather resistant and watertight condition.

(4) *Accumulation of Trash, Rubbish or Debris.* All property shall be maintained in a clean and sanitary manner and free from the accumulation of litter, rubbish, trash or other debris, except in closed receptacles intended for such use.

(5) *Pools of Stagnant Water.* All property shall be maintained to prohibit the formation of stagnant pools of water, which may affect adversely the public health by attracting and harboring mosquitoes and other insects.

(c) *Removal of Nuisance.* It shall be unlawful for the owner of any property in the city to violate any one or number of the property standards contained in section (b) and any such property in violation shall be deemed to be a public nuisance. The commissioner of health and human services, the director of code enforcement, or the fire chief shall declare the property a public health nuisance and order the property owner to remove the nuisance within ten (10) days after service of notice of the violation. Such notice shall be served in accordance with M.G.L. c. 111, § 124. The notice shall contain the following information:

1. The street address and description of the property sufficient for identification of the property.
2. A statement that the property has been declared a public nuisance because of the presence of a nuisance on the property.
3. A concise description of the conditions on the property that have lead to the determination that the property is a public nuisance.
4. A statement that the nuisance shall be removed from the property within ten days from service of the notice and that if the owner fails to remove the nuisance within the time frame specified that the owner will be in violation of this ordinance and subject to the penalties described therein.

(d) *Violations.*

(1) If the owner fails to remove such nuisance within the time frame provided in the section (c), the city may enter the property and remove or caused to be removed the nuisance and the owner shall reimburse the city for the expense incurred for such removal. The sum so expended may be recovered by the city as provided in M.G.L. c. 111, § 125 or in an action of contract by the city against the owner.

(2) This Ordinance may also be enforced by civil process, criminal process or by non-criminal disposition as provided in General Laws, Chapter 40, §21D. Each day on which a violation exists shall be deemed to be a separate offense and any person in violation of this ordinance shall be subject to the following fines:

first violation: fifty dollars  
second violation: one-hundred dollars  
third violation: two-hundred dollars  
fourth and each subsequent violation: three-hundred dollars

(3) In addition to the penalties set forth above, the commissioner of the department of health and human services, the director of code enforcement, or the fire chief may seek an injunction from a court of competent jurisdiction to restrain any violation of this ordinance.

(4) This Ordinance shall not be enforced against the city or the Commonwealth of Massachusetts, its authorities, departments, or agencies.

(e) *Definitions.* The following words and phrases, when used in this section, shall have the following meanings:

"*Nuisance*" -A failure to satisfy any one or more of the property standards set forth in section (b) herein.

"*Owner*"- means any person who owns, possesses, manages, or controls any property and shall be sufficiently identified by the name and address appearing in the records of the city assessor.

"*Property*" - means any land, building, structure of real property, including any fixtures attached hereto, or any personal property located within the city of Worcester.

"*Person*" - means any individual, voluntary association of individuals, business entity, or organization whether incorporated or not.

In City Council    October 16, 2007  
Passed to be ordained by a yea and nay vote of Nine Yeas and No Nay.

A Copy.    Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

Amendment 9075

AN ORDINANCE AMENDING CHAPTER FIFTEEN  
OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO ENFORCEMENT OF THE NUISANCE ORDINANCE

Be It Ordained by the City Council of the city of Worcester as follows:

Chapter 15, Section 2(b), of the Revised Ordinances of the City of Worcester 1996 is hereby amended by inserting the following new subsection at the conclusion thereof as follows:

(xxvi) Violation of any provision of the Nuisance Ordinance, Revised Ordinance chapter 8, § 42.

Penalty:	non-criminal disposition penalty:	
	first violation:	\$50.00
	second violation:	\$100.00
	third violation:	\$200.00
	fourth and each subsequent violation:	\$300.00

Enforcing persons: commissioner of the department of health and human services; fire chief; director of code enforcement; and any other official or employee of the city designated in writing by the city manager.

In City Council October 16, 2007  
Passed to be ordained by a yea and nay vote of Nine Yeas and No Nay.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 9091**

**AN ORDINANCE AMENDING CHAPTER THIRTEEN OF THE REVISED ORDINANCES OF 1996**

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter thirteen, section thirty-seven of the Revised Ordinances of 1996 is hereby amended by inserting a new sub-section (s), as follows:

(s) No person shall park or store outside a recreational vehicle, which is a vehicle or piece of equipment intended for recreational use, including but not limited to boats, boat trailers, camping or travel trailers, motor homes, and other mobile vehicular structures designed for recreational use having motor power or mounted onto and drawn by another vehicle, on property unless such recreational vehicle is parked within the setback requirements for the district where the property is located.

**In City Council December 18, 2007**

**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Amendment 9113**

**AN ORDINANCE RELATIVE TO PARKING AND STORAGE OF RECREATIONAL AND COMMERCIAL VEHICLES**

Be it ordained by the City Council of the City of Worcester, as follows:

Section 1. Chapter 8 of the Revised Ordinances of 1996 is hereby amended by inserting after section 9B a new section 9C, as follows:

§ 9C

(a) No person shall allow, permit, or suffer a recreational vehicle, which is a vehicle or piece of equipment intended for recreational use, including but not limited to boats, boat trailers, camping or travel trailers, motor homes, and other mobile vehicular structures designed for recreational use having motor power or mounted onto and drawn by another vehicle, or a commercial vehicle, bus, or trailer having a gross weight of 11,000 pounds or more to be parked within the setback requirements, as set forth in Table 4.2 of the Zoning Ordinance, for the district where the property is located.

(b) Upon determination that a violation of this subsection exists, a written notice shall be sent certified mail to the person notifying such person of the violation and ordering the removal of the recreational or commercial vehicle within seven (7) days after service of notice of the violation. The director of code enforcement may seek an injunction from a court of competent jurisdiction to restrain any violation of this Ordinance.

(c) This Ordinance may also be enforced by civil process, criminal process, or by non-criminal disposition as provided in General Laws, Chapter 40D, §21D. Each day on which a violation exists shall be deemed to be a separate offense and any person in violation of this Ordinance shall be subject to a fine of twenty-five dollars for each offense.

Section 2. Chapter 15, Section 2(b) of the Revised Ordinances of 1996 is hereby amended by inserting the following new subsection at conclusion thereof as follows:

(xxviii) Violation of any provision of the Revised Ordinance chapter 8, § 9C

Penalty: \$25.00  
Enforcing Person: director of code enforcement

Section 3. Chapter 13, Section 37 of the Revised Ordinances of 1996 is hereby amended by deleting in its entirety sub-section (s) pertaining to the parking and storage of recreational vehicles.

**In City Council      January 22, 2008**  
**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Amendment 9114**

**AN ORDINANCE AMENDING CHAPTER 13 OF THE REVISED ORDINANCES OF 1996 BY  
ADDING A NEW §42A RELATIVE TO PARKING SPACES FOR VEHICLES RENTED OR  
LEASED TO THE GENERAL PUBLIC ON AN HOURLY BASIS**

Be it ordained by the city council of the city of Worcester as follows:

1. Chapter 13 of the Revised ordinances of 1996 is hereby amended by adding after §42 the following new §42A

- (a) Where official signs are erected giving notice thereof, parking is restricted in such spaces designated by such signs to vehicles leased or rented on a hourly basis to the general public by a legal entity authorized to do business in the Commonwealth of Massachusetts and engaged in such rental business and which has designated such vehicles to the Commissioner of the Department of Public Works and Parks and the Commissioner has authorized such vehicles to use to such restricted parking spaces. The Commissioner of the Department of Public Works and Parks is authorized to make such reasonable regulations to implement this ordinance, including but not limited to the location of such restricted parking spaces and to file such regulations with the city clerk as Schedule XXI. After filing with the city clerk such Schedule XXI is specifically incorporated into this section.
- (b) No vehicle shall park in any such restricted space unless authorized to do so under subsection (a) above.
- (c) Any vehicle authorized under subsection (a) above to park in any such restricted space shall comply with all other applicable provisions of these ordinances including but not limited to provisions relating to snow removal and street sweeping.

2. Chapter 13 of the Revised Ordinances of the city of Worcester (1996) be and is hereby amended by inserting a reference to "42(a)" in Section 36 subsection (c).

**In City Council    February 12, 2008  
Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.**

**A Copy. Attest:**

***David J. Rushford*, Clerk  
David J. Rushford  
City Clerk**

**Amendment 9118**

**AN ORDINANCE REORGANIZING  
THE DEPARTMENTS, BOARDS & COMMISSIONS  
OF THE CITY OF WORCESTER**

Whereas, on December 21, 2004 the City Council approved and adopted a Reorganization Plan and Ordinance proposed by the City Manager under Article VI of the Home Rule Charter; and

Whereas, several corrections and minor modifications to the text of the Reorganization Ordinance were submitted to the City Council on July 19, 2005 and became effective on October 18, 2005 under Article VI of the Home Rule Charter; and

Whereas, such Reorganization Plans and Ordinances involved a comprehensive reorganization of all City Departments, Agencies, Boards and Commissions; and,

Whereas, the City Manager has proposed the creation of several new divisions, agencies and functions to address such important public issues as the safety and cleanliness of housing units and property, homelessness and youth opportunities and employment; and,

Whereas, the City Manager has proposed several additional refinements of the divisional groupings and reporting authorities in several departments; and,

Now, Therefore, Be it ordained by the City Council of the city of Worcester, as follows:

§ 1. The Revised Ordinances of 1996 are hereby amended by deleting the entire text of Part Two, Organization of City Agencies, and inserting in lieu thereof a new Part Two, Organization of City Agencies 2008, the text of which is attached hereto and incorporated herein by reference.

§ 2. Nothing herein shall diminish or impair any level of discretion to exercise independent judgment in the public interest as may be vested in any city officer, board or commission under state or federal law.

§ 3. The grant of authority made by these ordinances to any officer, department, division, board or commission of the city, to perform any function, operate any program, provide any service or conduct any activity, shall be deemed to be the fullest grant of public authority as may be authorized by law and, further, recognizing that these ordinances may grant authority to act in the public interest to one or more officer, department, division, board or commission of the city, the grant of authority to any one such officer, department, etc., shall not be deemed to impair or exclude the actions of any other officer, department, division, board or commission similarly authorized.

§ 4. The repeal of the ordinances accomplished by section one hereof shall not apply impair any lawful action taken under authority of the ordinances previously in effect.

§ 5. Nothing herein shall repeal or impair any executive order, directive or administrative policy issued by the city manager.

§ 6. Pursuant to Article Ten of the Home Rule Charter, General Laws chapter 43, § 5, and similar provisions of any previous city charter, nothing

herein, unless expressly stated herein, shall negate or relinquish any authority granted to any officer, department, division, board or commission of the city by any special act, general law, prior charter provision, or any other legal authority in so far as the same may have provided the basis for the establishment of any city department or agency which is reestablished and continued Under Article Six of the Home Rule Charter or by any provision of the Revised Ordinances of 1996.

**Effective Date**

§ 7. In accordance with Article Six of the city charter, this ordinance shall take effect on July 1, 2008.

**In City Council    March 11, 2008**  
**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
**David J. Rushford, City Clerk**

**Article 1. Executive Office of the City Manager**

- § 1. Establishment
  - § 2. Function
  - § 3. Head of the Executive Office
  - § 4. Authorities & Responsibilities of the Executive Office
  - § 5. Authorized Positions
  - § 6. Declarations of Emergencies
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Executive Office of the City Manager" ("office").

**§ 2. Function**

It shall be the function of the office to assist the city manager in the exercise the authority and responsibilities vested in the city manager by the city charter, the city council or any other source of law by providing an organizational, budgetary and administrative unit for the personnel assigned as the immediate staff of the city manager, for the property, real and personal placed under the care, custody and control of the city manager and for the appropriations made to fund the operations of the office of city manager as well as such other activities, personnel, property and appropriations not specifically assigned to another city agency, department or division.

**§ 3. Head of the Executive Office**

The office shall be headed by the city manager ("city manager"). The city manager may assign, in whole or in part, the duties and responsibilities of the head of the office of executive office to such other person as the city manager so chooses and who shall perform such duties and responsibilities at the pleasure of the city manager.

**§ 4. Authorities & Responsibilities of the Executive Office**

The city manager, or such other person and he or she shall designate from time to time as the head of the executive office, shall have the following authority and responsibilities:

- (2)management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the office, including, without limitation:
  - (D)to act as the legislative liaison of the city by preparing the annual legislative agenda of the city and monitoring the progress of legislation approved by the city council;
  - (E)to develop and administer the marketing program of the city and to promote Worcester as a place for conventions, tourism and travel; to administer the "Destination Worcester" marketing program and such other programs concerning the marketing of the city of Worcester to meeting and convention

planners, event and sports organizers and tourists and visitors;

(F) to assign any employee otherwise under the jurisdiction of the city manager to the interim management and operation of any agency of the city under the jurisdiction of the city manager.

- (6) supervision of the personnel in the office by establishing rules, policies and practices governing the operations of the office; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the office; evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level including suspensions and removals;
- (7) care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the office by the city manager and the city council;
- (8) management of the budget for the office, which shall include ordinary maintenance, salary and capital expenditures; and,
- (9) all such other authority as may be necessary and proper in the performance of the duties and responsibilities vested in the city manager by the city charter, the city council or any other source of law or as may be inherent in the exercise of the power, rights and duties, other than legislative, commonly associated with municipal chief executive or administrative officers.

#### **§ 5. Authorized Positions**

(a) *Table of Authorized Positions.* The office shall consist of the city manager and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the office shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

(c) *Duties & Responsibilities of Personnel Assigned to the Office.* In order to respond to the needs of the city and the demands of the office of city manager, the city manager may assign duties and responsibilities to the personnel assigned to the office as the city manager deems in the best interests of the city and the individuals assigned to the office shall perform such tasks and functions as may be requested by the city manager. Unless otherwise directed by the city manager, individuals assigned to the office shall also have the duty and responsibility to:

- (10) assist the city manager in the performance of the duties and responsibilities of the office of city manager;
- (11) manage the budget for any programs or operations placed under their responsibility by the city manager in accordance with the policies and requirements of the city manager, chief financial officer and the city auditor;

- (12) supervise the personnel assigned to them by assigning tasks and establishing work priorities, deadlines and work schedules for such employees; evaluating the performance of such employees in the office, recommending promotions, honors and discipline when so warranted;
- (13) administer the implementation of contracts concerning matters under the responsibility of the office and payable from funds appropriated to the office;
- (14) keep the city manager informed of all their activities, operations, programs, services, personnel, expenditures and receipts;
- (15) ensure that all their actions are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the city manager;
- (16) make recommendations to the city manager on changing or initiating any policy, operation, program or service to the public;
- (17) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager; and,
- (18) maintain any personal property assigned to them by the city manager.

#### **§ 6. Declarations of Emergencies**

(a) Whenever any natural disaster, heavy snow or ice storm, drought, or fire, or chemical, biological and nuclear accident or attack, or riot, mob or other act of lawlessness or civil disorder, endangers the health, safety and good order of persons or property within the city, the city manager may declare a state of emergency. Any such declaration shall state the reasons for its issuance, the geographic area governed, what property or types of property may be appropriated to respond to the specified emergency and the extent to which ordinarily lawful activity shall be prohibited or impaired. The city manager shall, as soon as practicable, transmit any such declaration to the city clerk. The city council may, by two-thirds vote, repeal, rescind or modify any such declaration.

(b) During any state of emergency as described herein, the city manager may, within the limits of the amount appropriated therefore, appoint such experts, clerks, assistants, and such personnel as the work of the department may require, and he may remove them. The city manager shall have the authority to appoint district coordinators as may be required. The city manager may make such expenditures within the appropriation therefore, or from other funds available to him, as may be necessary to execute effectively the purpose of chapter 639, Acts of 1950, or any other applicable law. The city manager may take command of any or all motor vehicles and other mechanical means of transportation, and all equipment related thereto, owned or controlled by the city or any of its departments, boards, commissions and agencies, for the duration of the state of emergency and deem such vehicles emergency vehicles. All city employees in possession of such vehicles and equipment shall comply with the directives of the city manager regarding the use of any such vehicle.

(c) The city manager on behalf of the city shall have the authority to receive on behalf of the city, services, equipment, supplies, material or funds by way of gift, grant or loan, for purposes of civil defense, ordered by the federal or state government, or any agency or office thereof, or any person, firm or corporation, subject to the terms of the offer and the rules and regulations, if any, of the agency or entity making the offer.

(d) All references to chapter 639, Acts of 1950, shall be applicable to act or acts in amendment or continuation of or substitution for chapter 639. Nothing in this chapter shall be deemed to limit or otherwise abridge the emergency powers or direction and control over emergency management or civil defense vested in the city manager by virtue of the Home Rule Charter, any statute or the common law.

**Article 2. Human Resources Department**

- § 1. Establishment
- § 2. Function
- § 3. Authorized Positions
- § 4. Head of Department
- § 5. Duties & Responsibilities

Related Board and Commission:

- § 6. Affirmative Action Advisory Committee
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Human Resources Department" ("department").

**§ 2. Function**

It shall be the function of the department to administer the human resources activities of the city, including personnel administration, collective bargaining, affirmative action, group insurance, employee training and education, workers compensation and injured-on-duty.

**§ 3. Authorized Positions**

The department shall consist of a director of human resources such other positions as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

**§ 4. Head of Department**

The department shall be headed by the director of human resources who shall be appointed by and shall serve at the pleasure of the city manager.

**§ 5. Duties & Responsibilities**

(a) *General Duties & Responsibilities.* The director of human resources shall be responsible for the performance of the functions of the office and shall:

- (13) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the office;
- (14) supervise the personnel in the office by establishing rules, policies and practices governing the operations of the office; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the office; evaluating the performance of individual employees in the office,

recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;

- (15) act as the legislative liaison of the city by preparing the annual legislative agenda of the city and monitoring the progress of legislation approved by the city council;
- (16) keep the city manager informed of the activities and needs of the office and provide the city manager with information developed by the office which would have a material impact on the financial condition of the city;
- (17) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service within the office;
- (18) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (19) perform such other tasks and functions as may be requested by the city manager;
- (20) ensure that all actions of the office are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America;
- (21) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the office by the city manager and the city council;
- (22) determine the priorities of the office and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (23) prepare, monitor and manage the budget for the office, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and
- (24) prepare, implement, evaluate and improve office operations, programs and projects in accordance with the goals and objectives established for the office by the city manager.

(b) *Specific Duties & Responsibilities.* The director of human resources shall:

- (27) act as the personnel administrator under authority delegated to the city by the agreement dated between the city and the department of personnel administration of the commonwealth;
- (28) plan, administer and direct all phases of the personnel plan, including wage and salary administration, position classification, sick and vacation leave, accident prevention and safety programs, physical examination program, personnel transactions and record keeping in

accordance with the applicable rules and regulations,  
ordinances and statutes;

- (29) conduct collective bargaining on behalf of the city manager;
- (30) review and advise the chief financial officer on all departmental requests for personnel and determine before any employee shall be hired, reinstated, promoted or transferred that:
  - (A)there exists a vacant position in the table of authorized positions for such employee;
  - (B)the proposed salary for such employee is in accordance with the salary ordinance;
  - (C)there is compliance with applicable laws, including the civil service laws, rules and regulations; and,
  - (D)the city manager has approved such employment;
- (31) develop and revise personnel policies and practices and recommend same to the city manager;
- (32) advise and inform city department heads, officials and employees, and other interested parties, relative to all aspects of the human resources programs and activities;
- (33) administer the grievance procedure for employees
- (34) administer the disciplinary system of the city at all levels below the city manager or other appointing authority;
- (35) administer the personal property damage fund;
- (36) serve as the city manager's advisor on equal opportunity matters in conjunction with the city's Human Rights Commission;
- (37) train and develop city employees;
- (38) implement the policy of equal employment opportunities contained in the city affirmative action plan;
- (39) receive, review and make recommendations to the city manager on affirmative action programs, goals, objectives and timetables;
- (40) manage the activities of the city physician;
- (41) administer, review, monitor, evaluate and investigate workers' compensation claims (G.L. chapter one hundred and fifty-two) filed by city employees;
- (42) administer, review, monitor, evaluate and investigate injured-on-duty claims (G.L. chapter forty-one, section one hundred eleven F) filed by city employees;
- (43) administer the city's light duty programs;
- (44) comply with all reporting requirements of the Division of Industrial Accidents and make appropriate presentations to that division;
- (45) review all applications for disability retirements;

- (46) request the city solicitor to provide legal representation in all cases where the law requires the city to be represented by an attorney and inform the city manager in all other cases where the director of human resources believes the assistance of the city solicitor would be advisable;
- (47) monitor and evaluate the city's personnel hiring employment patterns and practices; contract compliance efforts; fair housing policies and programs; permanent jobs; program benefits; and, program accessibility for the disabled covered under § 504 of the Rehabilitation Act;
- (48) collect and analyze data relative to equal employment opportunity for city departments and local offices; compliance of contract funded in part or in whole by city funds; fair housing; permanent jobs; program benefits; and, § 504 requirements with respect to employment in all city departments and offices;
- (49) provide equal opportunity technical assistance to city department heads;
- (50) administer the affairs of the affirmative action advisory committee established under these ordinances, attend all of its meetings, summarize comments made and policy suggestions decided upon, and submit quarterly reports to the Massachusetts Commission Against Discrimination;
- (51) serve as the city manager's coordinator on § 504 of the Rehabilitation Act of 1973;
- (52) administer the group health and life insurance programs by:
  - (I) authorizing and preparing all payments of premiums and cost reimbursement to the city's insurance carriers and computing the shares due from the employees' account and the city's account and coordinating matters involving payroll deductions and cash payments with the city treasurer;
  - (J) processing and approving all changes to existing group memberships and maintaining records of such members
  - (K) administering policies and procedures related to the delivery of group health insurance benefits;
  - (L) resolving problems of group membership and coverage which may be encountered by city subscribers and processing any necessary forms to correct problems;
  - (M) providing clear and comprehensive information to employees, retirees and departments concerning their benefits and options and advising employees and retirees on matters related to group insurance;
  - (N) propose, research, evaluate and implement programs and systems concerning cost control and containment in the areas of group insurance, worker's compensation and injured on duty;
  - (O) review contract and proposals from insurance carriers and to provide recommendations to the city manager regarding rates and terms of contracts; and,
  - (P) research and envelope alternate programs of health care delivery and financing for city employees and retirees

including researching and preparing legislative reform recommendations regarding state mandated programs and provisions concerning group insurance benefits.

**§ 6. Affirmative Action Advisory Committee**

(a) *Establishment of the Affirmative Action Advisory Committee.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Affirmative Action Advisory Committee" ("committee").

(b) *Membership of the Affirmative Action Advisory Committee.* The committee shall be comprised of nine members appointed by the city manager for terms of three years. The terms shall be staggered such that three terms shall expire on December 31st of each year. Nominations will be considered from organizations concerned with issues of equal opportunity in employment, housing and contract compliance, minority business enterprise, program benefits, permanent jobs and handicapped accessibility.

(c) *Duties & Responsibilities of the Affirmative Action Advisory Committee.* The committee shall:

- (4) provide the city manager annually with a report on the implementation and attainment of the goals established by the fair housing, equal employment and contract compliance plans of the city;
- (5) advise the city manager annually of its recommendations on establishing new affirmative action, equal opportunity and inclusionary programs and practices or revising such existing programs;
- (6) perform such other related duties as required by the city affirmative action program.

**Article 3. Executive Office of Economic and Neighborhood Development**

- § 1. Establishment
- § 2. Function
- § 3. Head of the Office
- § 4. Authorized Positions
- § 5. Organization of the Office
- § 6. Administration Division
- § 7. Cable Services Division
- § 8. Economic Development Division
- § 9. Neighborhoods & Housing Division
- §10. Planning and Regulatory Services Division
- §11. Workforce Development Operations Division
- §12. Workforce Investment Board Division
- §13. Youth Opportunities Division

Related Boards and Commissions:

- §14. Advisory Committee On Youth
- §15. Cable Television Advisory Committee
- §16. Cultural Commission
- §17. Historical Commission
- §18. Planning Board
- §19. Zoning Board of Appeals
- §20. Worcester Regional Airport Commission

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Executive Office of Economic & Neighborhood Development" ("office").

**§ 2. Function**

It shall be the function of the office to manage and operate the economic development, neighborhood development, housing development, workforce development, marketing and planning and regulatory services functions of the city.

**§ 3. Head of the Office**

(a) *Office Head.* The office shall be headed by an assistant city manager for economic and neighborhood development ("assistant city manager") who shall be designated by, and serve at the pleasure of, the city manager.

(b) *Duties & Responsibilities.* The assistant city manager shall be responsible for the performance of the functions of the office and shall:

- (13) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the office;
- (14) supervise the personnel in the office by establishing rules, policies and practices governing the operations of the office;

- assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the office; evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (15) keep the city manager informed of the activities and needs of the office and provide the city manager with information developed by the office which would have a material impact on the financial condition of the city;
  - (16) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service within the office;
  - (17) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
  - (18) perform such other tasks and functions as may be requested by the city manager;
  - (19) ensure that all actions of the office are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America;
  - (20) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the office by the city manager and the city council;
  - (21) determine the priorities of the office and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
  - (22) prepare, monitor and manage the budget for the office, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;
  - (23) prepare, implement, evaluate and improve office operations, programs and projects in accordance with the goals and objectives established for the office by the city manager; and,
  - (24) administer the executive functions of the Worcester Redevelopment Authority in accordance with the directives of the city manager and the by-laws of that agency.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The office shall consist of the assistant city manager and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the office shall be filled by appointment of the city manager and each such appointee shall, unless

otherwise expressly provided by law, serve at the pleasure of the city manager.

## **§ 5. Organization of the Office**

(a) *Establishment of Divisions.* The office shall be organized into the following divisions for the following purposes:

*Administration Division* - to assist the assistant city manager in the performance of the duties and responsibilities as the of the head of the office;

*Cable Services Division* - to administer the cable television franchise agreement, disburse funds received by that agreement, operate the government access channel and administer the affairs of the cable television advisory committee as established and authorized under these ordinances;

*Economic Development Division* - to administer the economic development agenda and programs of the city; to promote, develop and expand investment and employment in the city; to secure the commitment of private capital into new or existing businesses in the city; and, to administer and coordinate all federal, state and local programs involving the preparation of property for real estate development through the remediation or removal of contaminated buildings, soils or substances;

*Neighborhoods & Housing Division* - to develop and administer programs to improve the quality of life in the neighborhoods of the city, including the policies of the city on housing and homelessness; and, to administer the cultural commission as established and authorized under these ordinances;

*Planning & Regulatory Services Division* - to provide all city departments with master planning, neighborhood planning and project planning and analysis and to administer, advise and assist the planning board, zoning board of appeals and historical commission in the performance of their public responsibilities;

*Workforce Development Operations Division* - to operate one or more comprehensive customer-focused workforce investment and training centers known as "one-stop career centers" as that term is defined herein and to perform such other functions as may be authorized by federal or state laws or regulations consistent with such operations;

*Workforce Investment Board Division* - to provide administrative support services to the local workforce investment act board as the same is established and regulated by the Workforce Investment Act (Public Law 105-220; see 29 U.S.C. § 2801 *et seq.*, the "Act"), as the Act may be amended or superseded, and to provide the city manager with information and forecasts concerning employment, unemployment, employer needs and economic activity; and,

*Youth Opportunities Division* - to coordinate the provision of multiple government-based services and programs to local youth and to collaborate and coordinate with existing non-governmental organizations and agencies.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division of the office, the head of each division shall also have the duty and responsibility to:

- (12) assist the assistant city manager in the performance of the duties and responsibilities of the head of the office and perform such other duties as may be assigned or requested by the assistant city manager or otherwise prescribed by law;
- (13) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the assistant city manager;
- (14) supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the office, recommending promotions and honors and disciplining personnel at any level authorized by the assistant city manager up to and including suspensions for no more than five working days;
- (15) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (16) keep the assistant city manager informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (17) recommend to the assistant city manager implementing the rules, policies and practices governing the operations of the office as are approved by the assistant city manager;
- (18) prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the assistant city manager;
- (19) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the assistant city manager;
- (20) make recommendations to the assistant city manager on changing or initiating any policy, operation, program or service to the public;
- (21) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the assistant city manager; and,
- (22) maintain any property assigned to the division by the assistant city manager.

(c) *Management of Multiple Divisions.* The assistant city manager, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the office.

## **§ 6. Administration Division**

(a) *Division Head.* The assistant city manager shall designate the head of the division who shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties and Responsibilities.* The head of the division shall:

- (5) provide administrative, communications, scheduling, research and support services to the assistant city manager;
- (6) manage the processing of payroll, purchasing, contracts, and personnel documentation for the office;
- (7) assist the assistant city manager in the performance of his or her duties and responsibilities as the head of the office; and,
- (8) perform the duties and responsibilities described in section 5(b)(1-11) above.

## **§ 7. Cable Services Division**

(a) *Division Head.* The director of cable services shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties and Responsibilities.* The director of cable services shall:

- (7) administer the cable television franchise agreement and monitor the activities of the cable franchise operator;
- (8) after consultation with the cable television advisory committee, make recommendations annually to the assistant city manager as to the disbursement the funds received under the cable franchise agreement among the public, educational and government channel operations;
- (9) operate the government access channel on the cable television system so as to provide to the extent possible: A) live cablecasts of the meetings of the city council, committees of the city council, city boards and commissions and other governmental bodies related to the city of Worcester; 2) original content programming providing viewers with information about the operations, issues and decisions involving city of Worcester agencies; and, 3) other programming which is useful to the residents of Worcester and appropriate for broadcast on a government access cable channel;
- (10) coordinate as necessary with the director of technical services to ensure that any institutional network provided under any cable franchise agreement operates properly and meets the technical requirements of the city for the internal transmission of data among city offices;
- (11) administer and keep the records of the cable television advisory committee; and

- (12) perform the duties and responsibilities described in section 5(b)(1-11) above.

#### **§ 8. Economic Development Division**

(a) *Division Head.* The economic development division shall be headed and staffed by such personnel as shall be assigned by the assistant city manager.

(b) *Duties & Responsibilities.* The division head shall:

- (9) develop and administer the economic development program of the city;
- (10) attract and guide the investment of private capital into new or existing businesses or properties so as to expand the tax base and employment levels of the city;
- (11) administer the business and economic development laws and programs of the state and federal governments;
- (12) administer and coordinate contracts entered into by the city for business or economic development purposes;
- (13) develop and administer the marketing program of the city and promote Worcester as a place for living, working, and investing;
- (14) develop and administer the cultural development program of the city and, in partnership with the Worcester Cultural Coalition, promote Worcester as a place for creative enterprise;
- (15) develop and administer the environmental remediation programs of the city, including the administration of grants for the remediation of environmental contamination on public or private property;
- (16) perform the duties and responsibilities described in section 5(b)(1-11) above.

#### **§ 9. Neighborhoods & Housing Division**

(a) *Division Head.* The director of neighborhood development shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties & Responsibilities.* The director of neighborhood development shall:

- (9) administer the community development block grant program in accordance with the entitlements and requirements of the Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq., as amended, and the regulations adopted under authority thereof at 24 C.F.R. 570. (see, 24 C.F.R. 507.206);
- (10) administer state and federal grant programs which provide home ownership and housing opportunities and assistance for persons of low and moderate income;

- (11) develop policy recommendations on housing and homelessness and administer such policies as directed by the assistant city manager;
- (12) ensure that residents enjoy the full advantage of neighborhood programs involving community policing, local law enforcement, crime watch initiatives, clean city initiatives, community health, elder services, basic family preservation services; and enhanced neighborhood quality of life;
- (13) attend various neighborhood and community group meetings as directed by the assistant city manager;
- (14) perform planning, urban environmental design and policy-planning-management-capacity building activities under the community development block grant program (see, 24 C.F.R. 507.205) to the extent those activities are consistent with the neighborhood and housing development functions of the division;
- (15) process applications for grants from federal, state and private sources to be expended for housing and related needs by the department or by other appropriate city agencies for the public purposes for which those agencies have been established and organized under law; and,
- (16) perform the duties and responsibilities described in section 5(b)(1-11) above.

(c) *Grants and Program Activities.* When directed by the city manager, the division shall be authorized to monitor the implementation of any grant received and, in so doing to charge the grant proceeds with any administration fee authorized by law. The division shall not be the recipient of the proceeds of any grant awarded through the performance of its duty to process applications for grants from federal, state and private sources unless such grant provides funds for a programmatic activity under the responsibility of the office and the expenditure of such grant proceeds is approved by the city manager.

## **§ 10. Planning and Regulatory Services Division**

(a) *Division Head.* The director of planning and regulatory services ("director") shall head the division and shall have the assistance of such other personnel as shall be assigned by the assistant city manager.

(b) *Duties & Responsibilities.* The director shall:

- (1) provide the city manager and such other officers, employees, boards and commissions of the city as directed by the city manager or otherwise by law, with advice on planning and land use policy in the city by:
  - (iv) performing the planning, urban environmental design and policy-planning-management-capacity building activities prescribed in the community development block grant program (see, 24 C.F.R. 507.205) to the extent those activities are consistent with the land use planning and economic development functions of the office;

- (v) maintaining the official map of the city in accordance with the laws of the commonwealth; and,
  - (vi) maintaining an accurate copy of the zoning map in accordance with the zoning ordinance;
- (2) provide the assistant city manager with recommendations on useful changes to the official map of the city or the zoning map or zoning ordinance of the city;
  - (3) administer the affairs of the performance of any and all functions as may be lawfully delegated by any board or commission of the city to the director of planning and regulatory services; and,
  - (4) serve as the clerk and keeper of the records of the planning board, zoning board of appeals and historic commission; and,
  - (5) perform the duties and responsibilities described in section 5(b)(1-11) above.

(c) *Delegation of Duties to the Chief Planner.* The director may delegate any duty, responsibility or authority vested in that position by these ordinances, or any other law, to the chief planner.

(d) *Planning & Urban Environmental Design Activities.* In performing the planning, urban environmental design and policy-planning-management-capacity building activities under the community development block grant program (see, 24 C.F.R. 507.205), the director may gather data, conduct studies and analysis and otherwise prepare the following plans: comprehensive plans; community development plans; and, functional plans in areas such as economic development, land use and urban environmental design, housing, open space and recreation, energy use and conservation, floodplain and wetlands management, transportation, utilities, historic preservation.

(e) *Official Map.* The official map of the city shall contain only those public ways, private ways and parks as authorized by section 81E of chapter 41 of the General Laws. The director shall keep a true and accurate copy of the official map and is hereby authorized to certify as true copies and issue the official map of the city or any portion thereof. The director shall revise the official map with lines or notations showing proposed, new, altered, relocated or discontinued public ways and new, altered or discontinued boundaries of parks and playgrounds, as may from time to time result from any action of the city council or otherwise by operation of law. The director, either directly or through subordinates, shall cause all changes or additions to the official map to be recorded in the Worcester District Registry of Deeds and filed with the city clerk and the state agency designated by statute to receive said filings.

(f) *Zoning Map.* The director shall maintain a true and accurate copy of the zoning map of the city, as the same may be amended from time to time by action of the city council, and shall, either directly or through subordinates, certify as true copies and issue the zoning map of the city or any portion thereof. The director shall revise the zoning map to show changes made by any amendments to the zoning ordinance adopted by the city council or otherwise by operation of law. The director, either directly or through subordinates, shall cause all amendments to the zoning map to be recorded in the Worcester District Registry of Deeds and filed with the city clerk.

## **§ 11. Workforce Development Operations Division**

(a) *Division Head.* The director of workforce development operations shall head the division and shall have the assistance of such personnel as shall be assigned by the assistant city manager. Unless otherwise required by law, the director shall be appointed by and serve at the pleasure of the city manager.

(b) *Duties & Responsibilities.* The director of workforce development operations shall:

- (2) operate in accordance with all applicable laws and regulations one or more one-stop career centers as may be designated or certified from time to time by the local workforce investment board established under the Workforce Investment Act (Public Law 105-220, August 7, 1998, 112 Stat. 936; see 29 U.S.C. § 2801 *et seq.*; the "Act"), as the Act may be amended or superseded by subsequent federal legislation, and such other state laws or regulations implementing the Act. For purposes of this section, a "one-stop career center" shall be a comprehensive customer-focused workforce investment and training center which: 1) uses information and high quality services to provide people with access to the tools they need to manage their careers and companies with access to appropriately skilled workers; 2) qualifies as a "one-stop operator" under the Act and the requirements of the commonwealth in the implementation of the Act (see 29 U.S.C. § 2864(c)); and, 3) is designated or certified as a one-stop partner by the local workforce investment board (see 29 U.S.C. § 2841(d));
- (6) direct, control, supervise and discipline the staff of the one-stop career centers operated by the division and in doing so report directly and solely to the assistant city manager;
- (7) exercise such authority as may be provided to the chief administrative official of a one-stop career center by the Act or any federal or state law regarding employment, education and training programs;
- (8) administer and manage the operations, programs and activities of the division under the general superintendence of the assistant city manager; and,
- (9) to the extent not prohibited by the Act or any other federal or state law involving the employment and training of individuals, perform the duties and responsibilities described in section 5(b)(1-11) above.

(c) *Fiscal Agent.* In the event that the city manager designates the workforce development operations division to be the local fiscal agent or local grant subrecipient under 29 U.S.C. § 2832(d)(3)(B)(II), the director of workforce development operations shall provide such services in accordance with 29 U.S.C. § 2832(d)(3)(B)(III).

## **§ 12. Workforce Investment Board Division**

(a) *Division Head.* Whenever the local workforce investment board (as defined below) shall determine to employ individuals in the employ of the city of Worcester as its staff, the city manager shall appoint a director of workforce investment board who shall head this division and shall have the

assistance of such personnel as shall be assigned by the assistant city manager. Unless otherwise provided by law or in any agreement or memorandum of understanding between the city and the local workforce investment board, the director shall be appointed by and serve at the pleasure of the city manager.

(b) *Duties & Responsibilities.* The director of the workforce investment board shall:

- (10) provide executive staffing services to the local workforce investment board ("board") established under the Workforce Investment Act (Public Law 105-220, August 7, 1998, 112 Stat. 936; see 29 U.S.C. § 2801 *et seq.*; the "Act"), as the Act may be amended or superseded by subsequent federal legislation, and such other state laws or regulations implementing the Act;
- (11) act under the auspices of any agreement or memorandum of understanding between the city and the board concerning the employment of staff by the board;
- (12) exercise such authority within the service delivery area which includes the city as may be provided by the Act or any federal or state law regarding employment, education and training programs, including planning, contract development and negotiation, monitoring and evaluation, management information system maintenance and program and fiscal management;
- (13) direct, control, supervise and discipline such subordinate staff of the local workforce investment board as either the board may employ or the city manager may appoint in accordance with the personnel policies and practices of the city (or such other policies and practices as established by the board and approved by the city manager) and in doing so report solely to the board and the assistant city manager;
- (14) provide the city manager with information and forecasts concerning employment, unemployment, employer needs and economic activity;
- (15) keep the city manager advised on employment matters, including the Worcester area job market, existing proposed programs, federal and state legislation on employment, and employment trends;
- (16) provide advice and counsel to city agencies on employment, education and training planning matters;
- (17) perform such other duties as may be requested by the city manager or the board consistent with the above; and,
- (18) perform the duties and responsibilities described in section 5(b)(1-11) above.

(c) *Fiscal Agent.* In the event that the city manager designates the board to be the local fiscal agent or local grant subrecipient under 29 U.S.C. § 2832(d)(3)(B)(II), the director of the workforce investment board shall provide such services in accordance with 29 U.S.C. § 2832(d)(3)(B)(III).

(d) *Restrictions.* The director of the workforce investment board shall not, either directly or through subordinate staff, provide core services as described in 29 U.S.C. § 2864(d)(2) or intensive services described in 29 U.S.C. § 2864(d)(3), or otherwise operate a one-stop career center as described

above an in 29 U.S.C. § 2864(c), without the approval of the governor and the city manager or engage in any other activity concerning employment, education and training programs and projects which is prohibited by the Act or any law, regulation or guideline issued by the commonwealth of Massachusetts in these matters.

### **§ 13. Youth Opportunities Division**

(a) *Division Head.* The youth director shall head the division and shall have the assistance of such personnel as shall be assigned by the assistant city manager. Unless otherwise required by law, the director shall be appointed by and serve at the pleasure of the city manager.

(b) *Duties and Responsibilities.* The youth director shall:

- (9) identify and coordinate the provision of multiple government-based services and programs to local youth and collaborate and coordinate with existing non-governmental organizations and agencies, the business community and service providers involving youth programs, employment and services;
- (10) identify and coordinate various governmental and non-governmental funding sources for youth programs, employment and services;
- (11) assist the City Manager's Advisory Committee on Youth in the creation and updating of an *Agenda for Youth*, a five-year plan containing recommendations for jobs, programs, services and initiatives to benefit youth;
- (12) assist the City Manager's Advisory Committee on Youth in the development of performance measurements and benchmarking criteria to quantify the impact of youth programs;
- (13) assist the City Manager's Advisory Committee on Youth in the development of recommendations to the city manager on legislative initiatives for the benefit of youth;
- (14) advise the city manager and the City Manager's Advisory Committee on Youth on matters affecting youths;
- (15) administer and keep the records of the City Manager's Advisory Committee on Youth; and,
- (16) perform the duties and responsibilities described in section 5(b)(1-11) above.

### **§ 14. Advisory Committee On Youth**

(a) *Establishment of the City Manager's Advisory Committee on Youth.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "City Manager's Advisory Committee on Youth" ("committee").

(b) *Membership of the City Manager's Advisory Committee on Youth.* The committee shall consist of fifteen regular members appointed by the city manager for terms of three years, which terms shall be staggered such that no more than five terms shall expire on December thirty-first of each year. The city manager shall designate from the membership of the committee a chair and

vice-chair. The members of the committee shall consist of representatives of representatives of the following agencies and entities or, in the event that such agencies or entities are unable to provide representatives, the city manager may select individuals from other organizations as he or she deems appropriate to further the purposes of this provision:

- (16) Common Pathways;
- (17) HOPE Coalition;
- (18) Worcester Interfaith, Inc.;
- (19) Greater Worcester Community Foundation, Inc.;
- (20) Worcester Regional Chamber of Commerce;
- (21) Colleges of Worcester Consortium, Inc.;
- (22) UMASS Memorial Hospitals, Inc.;
- (23) United Way of Central Massachusetts, Inc.;
- (24) Pride Productions, Inc.;
- (25) Worcester Community Action Council, Inc.;
- (26) Central Massachusetts Regional Employment Board, Inc.;
- (27) Y.O.U, Inc.
- (28) Boys & Girls Club; Boys and Girls Club of Worcester, Inc.;
- (29) Young Women's Christian Association of Central Massachusetts;
- (30) Young Men's Christian Association of Greater Worcester.

(c) *City Representatives of the City Manager's Advisory Committee on Youth.* The city manager may also assign representatives from any city agency under the jurisdiction of the city manager, including the Worcester Department of Public Works and Parks, the Worcester Police Department and the Human Resources Division of the city of Worcester, Workforce Development Operations Division, Workforce Investment Board Division, to serve on the committee ex officio as associate members. The city manager may also request the superintendent of the Worcester Public Schools to assign a member of that department to serve as an associate member of the committee.

(d) *Duties & Responsibilities of the City Manager's Advisory Committee on Youth.* The committee shall:

- (7) assist the youth director in identifying government and non-governmental based programs, employment and services for local youth;
- (8) create, adopt and periodically update a five-year plan to be known as the "Agenda for Youth" which shall contain recommendations for jobs, programs, services and initiatives to benefit youth;
- (9) assist the youth director in the development of performance measurements and benchmarking criteria to quantify the impact of youth programs;
- (10) assist the youth director in the development of recommendations to the city manager on legislative initiatives for the benefit of youth;
- (11) advise the youth director and the city manager on matters affecting youths;
- (12) provide the city manager an annual report stating the undertakings of the committee, its accomplishments, conclusions

and recommendations concerning the matters under its jurisdiction.

#### **§ 15. Cable Television Advisory Committee**

(a) *Cable Television Advisory Committee.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Cable Television Advisory Committee" ("committee").

(b) *Membership of the Cable Television Advisory Committee.* The committee shall consist of seven persons appointed by the city manager for three year terms. The terms shall be staggered such that no more than two terms shall expire on December thirty-first of any year. The city manager shall designate from the membership of the committee a chair and vice-chair.

(c) *Duties & Responsibilities of the Cable Television Advisory Committee.* The committee shall:

- (9) advise and assist the city manager in the performance of the duties and responsibilities vested in the city manager by law as the licensing authority for cable television franchises in the city;
- (10) provide advice concerning public, governmental, educational, and other access programming on cable television;
- (11) meet periodically with the licensee, concerning matters of interest between the licensee, the public, the city manager as issuing authority, and the city;
- (12) report to the city manager regarding compliance by the licensee with the terms and conditions of the license, and to provide advice concerning the same;
- (13) render advice and suggestions concerning local, educational and governmental origination programming;
- (14) supervise the licensee's manner of responding to, and of resolving, complaints by members of the public;
- (15) respond to inquiries by members of the public regarding cable television matters; and,
- (16) provide the city manager an annual report stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the cable television matters under its jurisdiction.

#### **§ 16. Cultural Commission**

(a) *Establishment of the Cultural Commission.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Cultural Commission" ("commission").

(b) *Membership of the Cultural Commission.* The commission shall consist of nine members who shall be appointed by the city manager for a term of three years. The terms shall be staggered such that three terms expire on December

thirty-first of each year. The city manager shall from time to time designate one of the members of the commission as its chair.

(c) *Duties & Responsibilities.* The commission shall:

- (7) promote the cultural affairs of the city;
- (8) conduct studies and research and publish reports on cultural activities;
- (9) cooperate with federal and state cultural agencies;
- (10) advise municipal agencies of cultural matters;
- (11) allocate any funds received by the commission for cultural projects, programs or activities in accordance with law; and,
- (12) perform such other duties as may be prescribed by law.

## **§ 17. Historical Commission**

(a) *Establishment of the Historical Commission.* Under authority of General Laws, chapter forty C, sections four and fourteen, and chapter forty, section eight D, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Historical Commission" ("commission").

(b) *Establishment of Massachusetts Avenue & Montvale Historic Districts.* Under authority of General Laws, chapter forty C, section three, there are hereby established historic districts to be known as the "Massachusetts Avenue Historic District" and the "Montvale Historic District", both being shown on maps bearing their respective titles and on file with the city clerk and made a part hereof.

(c) *Membership of the Historical Commission.* The commission shall consist of six regular members and two alternates appointed for terms of three years by the city manager in accordance with the requirements of the city charter and the provisions of this section. The terms shall be staggered such that two terms of regular members shall expire every December thirty-first. The terms of alternate members shall be staggered such that the terms shall expire on December thirty-first on successive years and none shall expire every third year. One member shall be a resident of the Massachusetts Avenue Historic District and one member shall be a resident of the Montvale Historic District.

All members and alternates shall have demonstrated a special interest, competence or knowledge in historic preservation. To the extent available in the charter appointment districts, members of the commission shall be professionals in the disciplines of architecture, history, architectural history, prehistoric archaeology, historic archaeology, urban planning, American studies, American civilization, cultural geography and cultural anthropology. In case of absence, inability to act or unwillingness to act because of self-interest on the part of any member of the commission, his or her place shall be taken by an alternate member designated by the chair.

(d) *Duties & Responsibilities of the Historical Commission.* To preserve, promote and develop historic assets of the city in accordance with law, the commission shall:

- (13) administer the Massachusetts Avenue Historic District and the Montvale Historic District, and any additional historic districts lawfully established, consistent with General Laws;
- (14) issue certificates of appropriateness, certificates of nonapplicability, and certificates of hardship with respect to construction or alteration of buildings and structures within the historic district when such construction or alteration affects exterior architectural features. Such certificates shall be issued as prescribed in the General Laws, chapter forty C, section six;
- (15) consider factors as prescribed in General Laws, chapter forty C, section seven, in passing upon matters before it;
- (16) issue such certificates, make such recommendations, keep such records and have such powers, functions and duties as are prescribed in General Laws, chapter forty C, section ten, except that officers and employees necessary for the proper administration of the commission shall be appointed and removed by the city manager in accordance with the city charter; and all gifts shall be subject to approval of the city manager and city council;
- (17) call and conduct meetings and to hold such public hearings as are prescribed in General Laws, chapter forty C, section eleven;
- (18) conduct research for places of historic value, to coordinate the activities of unofficial bodies organized for similar purposes, to advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it deems necessary for its work, and to make such recommendations as are described in General laws, chapter forty C, section eight D;
- (19) propose from time to time to the city manager as it deems appropriate, the establishment in accordance with the provisions of this Article and the General Laws, chapter forty C, section three, of additional historic districts and changes in historic districts;
- (20) determine an appropriate system of markers for selected historic sites and buildings not already sufficiently marked, to arrange for preparation and installation of such markers, and to arrange for the care of historic markers;
- (21) advise the redevelopment authority, planning board and any other city department or agency in matters involving historic sites and buildings;
- (22) cooperate with and enlist assistance from the National Park Service, the National Trust of Historic Preservation, and other agencies, public and private, concerned with historic sites and buildings;
- (23) advise owners of historic buildings in Worcester on problems and solutions of preservation; and
- (24) perform such other duties as may be prescribed by law.

(e) *Advisory Board to the Historical Commission.* The commission may recommend to the city manager from time to time as needed, appointment of advisory committees of historians and persons experienced in architecture or

other arts or in historic restoration or preservation to assist the commission.

(f) *Rules & Regulations of the Historical Commission.* The commission, under the authority of General Laws, chapter forty C, shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein, and may adopt and amend such rules and regulations not inconsistent with the provisions of chapter forty C and prescribe such forms as it shall deem desirable and necessary for the regulation of its affairs and the conduct of its business.

(g) *Maintenance & Repair of Properties Under the Jurisdiction of the Historical Commission.* Nothing herein shall be construed to prevent the ordinary maintenance and repair of buildings, structures or grounds within the district nor prevent actions by duly authorized public officers as described in General Laws chapter forty C, section nine.

(h) *Appeals from Decisions of the Historical Commission.* Any applicant aggrieved by a determination of the commission may file a written request with the commission for review by person or persons of competence and experience in such matters designated by the Central Massachusetts Regional Planning Commission as prescribed in the General Laws, chapter forty C, section twelve, and may further appeal such determination to the superior court as prescribed in the General Laws, chapter forty C, section twelve A.

#### **§ 18. Planning Board**

(a) *Establishment of the Planning Board.* Under authority of General Laws, chapter forty-one, section eighty-one A, and Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a regulatory board of the city to be known as the "Planning Board".

(b) *Membership of the Planning Board.* The planning board shall consist of five members appointed by the city manager for a term of five years such that one term shall expire on May thirty-first of each year.

(c) *Duties & Responsibilities of the Planning Board.* It shall be the duty and responsibility of the planning board to exercise the authority granted to it by the subdivision control law, and any other applicable general or special law, and the city wetlands ordinance, and any other applicable city ordinance.

#### **§ 19. Zoning Board of Appeals**

(a) *Establishment of the Zoning Board of Appeals.* Under authority of Article Six of the Home Rule Charter and General Laws chapter forty A, section twelve, there is hereby established under the jurisdiction of the city manager a regulatory board of the city to be known as the "Zoning Board of Appeals" ("zoning board").

(b) *Membership of the Zoning Board.* The zoning board shall consist of five members appointed by the city manager for terms of five years. The terms of such members shall be staggered such that one term shall expire on December thirty-first of each year. The members so appointed shall be designated regular members at the time of their appointment.

(c) *Associate Members of the Zoning Board.* The city manager shall also appoint two individuals to serve as associate members of the zoning board. The terms of associate members shall be five years and shall expire on December thirty-first. The associate members terms shall be staggered such that the term of the second associate member shall expire on the December thirty-first two years after the expiration of the term of the first associate member.

(d) *Duties & Responsibilities of the Zoning Board.* The zoning board shall:

- (7)hear and decide land use matters properly brought before it under the zoning ordinance of the zoning act, G.L. chapter forty A;
- (8)carry-out the duties and responsibilities vested in the zoning board by the city zoning ordinance;
- (9)exercise the jurisdiction provided by section eighty-one Z of chapter forty-one of the General Laws;
- (10) adopt rules not inconsistent with the zoning ordinance for the conduct of its business and to file a copy of its rules, together with any amendments as they are adopted, with the city clerk;
- (11) elect annually a chair from one if its regular members; and,
- (12) perform such other duties as may be prescribed by law.

**§ 20. Worcester Regional Airport Commission**

(a) *Establishment of the Worcester Regional Airport Commission.* Under authority of the General Laws, chapter ninety, section fifty-one D, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Worcester Regional Airport Commission" ("commission").

(b) *Membership of the Worcester Regional Airport Commission.* The commission shall consist of seven members appointed by the city manager for three year terms. At least one member shall have experience in aeronautics. The terms shall expire on May 31st of each year and shall be staggered such that two terms shall expire each year for two years and three terms shall expire every third year.

(c) *Duties & Responsibilities of the Worcester Regional Airport Commission.* The commission shall:

- (9)have care, custody and control of the aviation facilities of the city known as Worcester Regional Airport at James D. O'Brien Field;
- (10) provide general administration and supervision over such personnel at the airport as the city council, with the advice of the city manager, shall from time to time authorize to serve at the airport, excepting only those matters entrusted to the executive officer of the Worcester Regional Airport Commission as provided herein;

- (11) provide general administration and supervision over the activities of the Massachusetts Port Authority as the contractual operator of the airport;
- (12) promulgate rules and regulations for the use of the airport under the authority of chapter ninety, section fifty-one J of the General Laws;
- (13) perform all duties prescribed for the commission by chapter ninety, sections fifty-one D through fifty-one N of the General Law;
- (14) make recommendations to the city manager for the approval of all city contracts, leases, deeds or legally binding obligations to which the city of Worcester, acting through its regional airport commission, is a party where the amount involved is two-thousand dollars or more;
- (15) seek the approval of the Massachusetts Aeronautics Commission whenever necessary or advisable; and,
- (16) perform such other duties as may be prescribed by law.

(d) *Executive Officer of the Worcester Regional Airport Commission.* Unless otherwise provided in the airport operating agreement with the Massachusetts Port Authority, the city manager shall appoint an executive officer of the commission who shall be qualified by general management experience and aeronautical knowledge. The executive officer shall serve at the pleasure of the city manager and shall administer the affairs of the commission and be its clerk for the keeping and certifying of its official documents. The executive officer of the commission and shall act under the auspices of the airport operating agreement with the Massachusetts Port Authority or any such successor agreement or lease with the Massachusetts Port Authority or any other independent entity legally authorized to operate or lease Worcester Regional Airport. The executive officer shall supervise the personnel assigned to the airport by the city manager by implementing or establishing rules, policies and practices governing the operations and activities of airport personnel; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the airport; evaluating the performance of individual employees in the airport, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days.

**Article 4. Department of Administration & Finance**

- § 1. Establishment
- § 2. Function
- § 3. Head of Department
- § 4. Authorized Positions
- § 5. Organization of Department
- § 6. Assessing Division
- § 7. Budget Office Division
- § 8. Purchasing Division
- § 9. Technical Services Division
- §10. Treasury and Collections Division

Related Commission:

- §11. Trust Funds Commission

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Administration & Finance" ("department").

**§ 2. Function**

It shall be the function of the department to direct and coordinate all matters relating to the funds and finances of the city, excepting those under the legal auspices of the city auditor; said functions to include the preparation and management of the city budget, the assessment and collection of all city taxes, excises, betterments, assessments, fees, fines and penalties, the award of contracts for the acquisition of goods, supplies, services and property, the application for grants from any source and the management of the electronic information communications and processing systems.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the chief financial officer of the city who shall be appointed by, and serve at the pleasure of, the city manager.

(b) *Duties & Responsibilities.* The chief financial officer shall be responsible for the performance of the functions of the department and shall:

- (12) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department and its divisions;
- (13) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of

- individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (14) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;
  - (15) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
  - (16) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
  - (17) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
  - (18) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these Revised Ordinances, the Home Rule Charter, the Constitutions and laws of the Commonwealth and the United States of America;
  - (19) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council;
  - (20) determine the priorities of the department and to prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
  - (21) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
  - (22) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the chief financial officer, city assessor, city treasurer and collector, purchasing agent, chief information officer, director of grants acquisitions and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

## § 5. Organization of Department

(a) *Establishment of Divisions.* The department shall be organized into the following divisions for the following purposes:

*Assessing Division* - to provide tax assessment services for the city;

*Budget Office Division* - to prepare the city operating and capital budgets, ensure that all expenditures conform such budgets, to provide estimates of the cost of new programs or policy changes and to make projections concerning the financial health of the city and to assist the director in the performance of duties and responsibilities as the of the head of the department and to oversee the preparation and filing of applications for grants funds for all departments of the city;

*Purchasing Division* - to make the purchases for all departments, boards, commissions and agencies of the city, including the school department;

*Technical Services Division* - to provide information management and support services to all city agencies including, but not limited to, the planning, analysis, development and support of information systems, including a geographic information system, for all agencies of the city, including the school department as assigned;

*Treasury & Collections Division* - to receive, collect, manage and disburse all funds of the city in accordance with law.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division shall also have the duty and responsibility to:

- (11) assist the chief financial officer in the performance of the duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the chief financial officer or otherwise prescribed by law;
- (12) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, director of administration & finance, the city auditor or the chief financial officer;
- (13) supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the director up to and including suspensions for no more than five working days;
- (14) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (15) keep the chief financial officer informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;

- (16) implement the rules, policies and practices governing the operations of the department as are approved by the chief financial officer; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the chief financial officer;
- (17) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the chief financial officer;
- (18) make recommendations to the chief financial officer on changing or initiating any policy, operation, program or service to the public;
- (19) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the chief financial officer; and,
- (20) maintain any property assigned to the division by the chief financial officer.

(c) *Management of Multiple Divisions.* The chief financial officer, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the department.

## **§ 6. Assessing Division**

(a) *Division Head.* The city assessor shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The city assessor shall:

- (7) make an assessment of all the taxable properties in the city and place the list of taxes, together with itemized lists of real estate in duplicate, ready for mailing, with the warrant for the collection of same, in the hands of the city treasurer within thirty days of determining the tax rate in each year and on or before the first day of every ensuing month lists of all additional or supplementary assessments made during the preceding month, together with warrant for their collection;
- (8) prepare lists of the amounts taxes or abatements of taxes, including notations of the amounts thereof which have not been included in any previous statement, and provide copies of those lists to the city treasurer and city auditor
- (9) perform all duties prescribed by the general laws, including chapter fifty-nine, and any special act applicable to the city;
- (10) have care and custody of all books, papers and documents belonging to the division and shall deliver the same to his or her successor in office;

- (11) keep records of all official transactions; and,
- (12) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Notices of Exemption or Abatement Eligibility.* The city assessor shall, at the time he commits the tax list to the city treasurer for collection, include therewith a notice to taxpayers containing information in regard to eligibility and requirements for a tax exemption or tax abatement, as follows:

- (4) Such notices shall be made a part of or otherwise included with each tax notice and shall inform taxpayers that they may be eligible to receive a tax exemption or tax abatement if they fall within certain categories as are described within G.L. chapter 59, § 5; that in addition thereto, the said notice shall contain a brief statement that the subject categories as are described by G.L. chapter 59, § 5 include, but are not limited to, the following examples:

- (J) widows or minor children of a deceased father;
- (K) veterans with disability rating of ten per cent or more or who have suffered certain injuries or been awarded certain medals for distinguished service; that wives, unmarried widows and surviving parents of certain veterans may also be eligible for an abatement;
- (L) blind persons;
- (M) persons over seventy years of age;
- (N) a spouse of a police officer or firefighter killed in the line of duty;
- (O) minor children of police officer or firefighter killed in the line of duty if the mother or father of the said children is also deceased;
- (P) persons who are not able to pay taxes due, because of age, infirmity and poverty;
- (Q) certain persons, age sixty-five or over, may be eligible to postpone payment of all or a portion of real estate taxes, when a tax deferral and recovery agreement has been entered into with the city assessor;
- (R) a person who believes that he has been assessed at more than his just proportion or that the property has been assessed in excess of its fair cash value.

- (5) Said notice in addition to these matters described within subsection shall include therein a brief statement informing taxpayers that applicants for exemption or abatement must meet certain statutory requirements; that such requirements may vary according to the particular exemption or abatement sought; that information concerning eligibility may be obtained from G.L. c. fifty-nine, section five, or by request to the city assessor. That the requirements may include, but are not limited to, the following examples:

- (A) residence and/or domicile within the commonwealth for certain time periods;
- (B) financial resources within certain prescribed limits;

(C)age restrictions as to applicants for certain exemptions or abatements.

- (6) Said notice shall further include a brief statement informing taxpayers that applicants for exemption or abatement are required by law to make application on official forms; said notice shall also include the address and phone number of the office where such forms are available; that by law, such applications are required to be filed within certain time periods; that the specific time for filing applications for the various exemptions or abatements is printed on each tax bill or otherwise include with each tax bill and that further assistance in this regard is available from the city assessor.

#### **§ 7. Budget Office Division**

(a) *Division Head.* The chief financial officer shall head the division and shall have the assistance of such other personnel as shall be assigned by the city manager.

(b) *Duties and Responsibilities.* The chief financial officer shall:

- (10) assist the city manager in the preparation, submission and explanation of the annual budget and the five year annual capital outlay program as required by Article 5 of the city charter and with submission and explanation thereof to the city council;
- (11) assist the city manager in the preparation, submission and explanation of any supplemental budget or transfer of appropriation as authorized by article five of the city charter;
- (12) review and approve for the approval of the city manager all purchase orders, requests for personnel and capital expenditure requests;
- (13) keep records of all budget entries and transactions and the activities of the division;
- (14) manage the processing of payroll, purchasing, contracts, and personnel documentation for the department; identify federal, state and private grant programs which could be employed to fund existing or new city operations;
- (15) advise city departments of the eligibility requirements and deadlines and the operational requirements and obligations involved in any grant;
- (16) advise the chief financial officer and the department or division for which the grant is sought of any financial obligations which would be placed upon the city by acceptance of any particular grant;
- (17) assist the department in obtaining the approval of the city manager and city council prior to the filing of any grant application; and,

- (18) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Grant Funded Activities.* Whenever a grant has been awarded from any source to further the performance of the duties and responsibilities described in section five hereof, the proceeds of all and any such grants shall be deposited in accounts within the office of the city manager which accounts shall, for financial management purposes, be under the control of the director. Whenever a grant provides funds for an activity which would be properly or ordinarily be performed by any other city agency regardless of the source of funding, that city agency shall be responsible for implementing the activities funded by the grant.

## **§ 8. Purchasing Division**

(a) *Division Head.* The purchasing agent shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The purchasing agent shall:

- (11) serve as the chief procurement officer of the city on all transactions unless the city manager has designated otherwise with regard to any particular contract or to any category or categories of contracts;
- (12) administer the provisions of the city charter and the public bidding laws in the award of all city contracts for the purchase of supplies or other personal property, the acquisition of services, the construction, reconstruction, alteration, remodeling or repair of any public work or public building, the purchase or sale of real property, the disposal of real, personal or tangible property, and the retention of design or engineering services, unless otherwise directed by the city manager with regard to any particular contract or to any category or categories of contracts;
- (13) initiate the proper contract award procedure upon the request of the head of any city department, including the school department;
- (14) award the contract, in the case of tie low bids, quality and delivery being equal, to a bidder having a place of manufacture or business in the city, or to a bidder who has already established a satisfactory experience with the city;
- (15) administer the execution of contracts by securing the signatures of the vendor or contractor, the head of the department originating the purchase or transaction, the budget officer or city auditor as the case may be, the city solicitor and the city manager in that order except in the case of public works or public buildings construction contracts where all city signatories shall execute the contract in the order described above prior to the contract being presented to the contractor for signature;
- (16) deliver an original of each city contract once fully executed to the city clerk and copies of the same to the city auditor and the department originating the purchase or other transaction;

- (17) review all invoices prior to payment as may be presented concerning the purchase of goods or supplies by any city department to determine whether the invoice accurately reflects the terms of the contract and that the quantity, quality and delivery of the goods or services complies with the contract;
- (18) keep current on market trends and conditions concerning goods and supplies frequently purchased by the city;
- (19) ascertain from any department such information as may be necessary or useful to supply goods and services to that department, including information necessary to schedule periodic deliveries of supplies or the performance of services; and,
- (20) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Emergency Procurement.* In the event of an emergency declared by the city manager, take any action as directed in said declaration or pursuant thereto by the city manager.

(d) *Promulgation of Rules & Allocations of Scarce Commodities.* The purchasing agent may, with the approval of the chief financial officer, promulgate rules of procedure governing the foregoing duties and responsibilities, the purchasing procedures to be followed by city agencies and the allocation of any commodity, including oil, gasoline, paper and road salt, which is in short supply due to extraordinary market conditions and, in such event, any department head aggrieved by any such allocation may appeal to the city manager for a final determination of the allocation of such commodities.

## **§ 9. Technical Services Division**

(a) *Division Head.* The chief information officer shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The chief information officer shall:

- (11) organize and implement a centralized information systems center as authorized by the city manager;
- (12) direct, organize, and implement the planning, development and production of information systems, including the integrated municipal information system and the geographic information system;
- (13) direct and control the data operations and personnel of the department;
- (14) coordinate through advice and counsel the data requirements of any other city agency;
- (15) advise the city agencies on information systems matters, including the review of proposed applications or equipment acquisitions;
- (16) provide support services to city agencies, in accordance with the priorities of the city manager;
- (17) maintain and safeguard data, city-wide network,

- information, programs and equipment of the department;
- (18) establish rules and regulations controlling the access and release of data, including, but not limited to, particular personnel information of municipal employees and other persons and arrest records or similar law enforcement data;
  - (19) maintain the confidentiality of any information or data collected or processed by the division except as authorized by the user agency, the chief financial officer or the city manager; and,
  - (20) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 10. Treasury and Collections Division**

(a) *Division Head.* The city treasurer and collector shall head the division and shall have the assistance of such other personnel as shall be assigned by the chief financial officer.

(b) *Duties and Responsibilities.* The city treasurer and collector shall:

- (13) perform all duties prescribed by chapter forty-one of the General Laws;
- (14) maintain an account of all receipts and disbursements for and on behalf of the city and to conform the same as nearly as may be possible with accounts kept by the city auditor;
- (15) have custody of, and keep a registry thereof, all official bonds, notes, scrip and other certificates of indebtedness, together with coupons issued by the city after they have been paid, except for the fidelity bonds of the city treasurer and any assistant treasurer, which shall be kept by the city auditor;
- (16) render to the city manager annually on or before September thirtieth a detailed statement of all receipts and disbursements for the previous fiscal year;
- (17) negotiate under the direction of the city manager all loans authorized by the city council;
- (18) collect and receive all money due to the city on all accounts and other demands against persons indebted to the city and disburse all sums owed by the city, except as otherwise provided by law or city ordinance;
- (19) collect and administer the laws regarding the payment of fines for parking violations and for civil and criminal violations of city ordinances enforced through the non-criminal disposition process;
- (20) keep and safeguard all books and records of the division;
- (21) deliver to his successor all books, papers, documents and property of the division;
- (22) act as treasurer and custodian of all trust funds of the city and all funds of the Worcester Retirement System;

- (23) administer the affairs of the trust funds commission established by these ordinances and perform all such duties as may lawfully be required by the commission; and,
- (24) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Receipt of Payments Other Than At The Treasury.* Departments, divisions, boards and commissions, when authorized in writing by the city manager, may process the receipt of payments for services they render and the receipts given by such departments at the time of any such payment shall be sufficient to establish the valid discharge of the debt due the city. Otherwise, only the receipt of the city treasurer shall be sufficient to establish the valid discharge of any debt due the city. Any departments, etc., so authorized, shall make returns of all such collections to the treasurer and render accounts of their collections to the city auditor. The treasurer shall determine the form, manner and time of all such returns and the city auditor shall determine likewise for all such accounting.

(d) *Payments Only Upon Appropriation.* No money shall be paid out of the city treasury by the treasurer except by appropriation order of the city council, or to satisfy final judgments against the city, unless the expenditures or the terms of the contract shall have been approved or certified by the chair of the board or by the officer heading the department or division authorized to incur the expenditure or make the contract or unless the same shall have been approved by and the warrant therefor shall have been drawn by the city manager. No other person shall pay any bill of any department or division.

(e) *Fidelity Bonds.* The treasurer, acting solely in his or her capacity as city treasurer, shall give a bond to the city in accordance with chapter forty-one, section thirty-five of the General Laws. The city treasurer, acting solely as collector of taxes, shall give a separate bond to the city acceptable to the commissioner of revenue.

#### **§ 11. Trust Funds Commission**

(a) *Establishment of the Trust Funds Commission.* Under authority of General Laws, chapter forty-one, section forty-five, and Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Trust Funds Commission" ("commission").

(b) *Membership.* The commission shall consist of three commissioners who shall be appointed by the city manager for three year terms. The terms shall be staggered such that one term shall expire on January thirty-first each year.

(c) *Duties and Responsibilities.* The commission shall:

- (13) manage all trust funds given or bequeathed for the benefit of the city inhabitants thereof in accordance with the terms of each trust, unless the gift or bequest shall otherwise provide, including the "William A. Richardson Park Fund", the Jaques Fund and any other fund held by the city for the benefit of the former city hospital; provided, however, that any trust fund given or bequeathed to the city for the benefit of the Free Public Library, whether now existing or given in the future, shall be managed by the

board of directors of the Free Public Library unless the trust should provide otherwise;

- (14) adopt regulations governing its affairs, which regulations shall provide that any investment decision made by the commission shall be effective only if approved by at least two of the trustees;
- (15) distribute the income in accordance with the terms of the respective trust;
- (16) have care, custody and control of all the remaining property, real, personal, mixed, which had been received, or shall hereafter be received, directly or indirectly by gift, bequest or otherwise, for the benefit of the former city hospital, except as otherwise provided by such gift, devise, or deed or otherwise;
- (17) have the full power and authority to negotiate and make sale of any real estate now held by the city for the use and benefit of the former city hospital, and all real estate which has been or may be hereafter granted, conveyed or devised to the city for the use benefit of the city hospital, unless conditions are connected with the conveyance, devise or gift inconsistent therewith, and all real estate which may at any time become the property of the city through any investments made by authority of this section, and for the time being not in use for hospital purposes, in such quantities, at such times, and upon such terms as they shall regard the most advantageous to the interest of all parties interested in the funds, provided that, any conveyance of real estate so sold shall be valid only by deed executed by the city manager and assented to by the commission;
- (18) invest from time to time all monies which shall hereafter be derived from the sale of real estate or personal property given, granted or bequeathed for the benefit of the city hospital, in the same securities and in the same manner provided by the statutes of the commonwealth for the management and investment of deposits in savings banks; provided, that no part of the money or property shall be invested in the bonds, scrip or other obligations of the city;
- (19) pay over to the city treasurer when appropriate all monies hereafter received as income from any property heretofore granted, bequeathed or conveyed, for the benefit of the former city hospital, whether as rents, interest, or otherwise, unless conditions connected with the bequest or gift is inconsistent therewith, after deducting such sums as may be expended by them in necessary repairs upon the property and such sums as may be otherwise necessarily expended by them in the performance of their duties, and the city treasurer's receipt therefor shall be a sufficient voucher for such payments;
- (20) seek the advice and representation of the city treasurer and city solicitor whenever it appears reasonable or necessary to obtain judicial approval for the use of any trust funds, including former city hospital funds, for other public purposes;

- (21) perform all duties prescribed by chapter forty-one, section forty-seven of the General Laws;
- (22) keep full records of its doings and of the investments showing in detail the sources of receipts and the items of expenditure;
- (23) make annual reports to the city manager of its doings and stating the condition of each trust fund under its care; and,
- (24) perform such other duties as may be prescribed under law.

(d) *Custodian of the Trust Funds.* The city treasurer shall be the custodian of all funds and securities of such trust funds and shall invest and reinvest them and monies therefrom as directed by the commission. The city treasurer shall collect the income earned by the trust funds and each month shall turn over such income to the city to be spent in the manner provided for by the terms of the gift or bequest upon the draft of the city manager, counter-signed by the city auditor, in the same manner as other monies are disbursed.

**Article 5. Department of Public Works and Parks**

- § 1. Establishment
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Related Boards and Commissions:

- §10. Civic Center Commission
- §11. Conservation Commission
- §12. Designer Selection Board
- §13. Hope Cemetery Board
- §14. Lincoln Square Memorial Board
- §15. Memorial Auditorium Board of Trustees
- §16. Off-Street Parking Board
- §17. Parks & Recreation Commission

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Public Works and Parks " ("department").

**§ 2. Function**

It shall be the function of the department to manage and perform capital facility improvement projects and to provide city residents, businesses and visitors with fundamental environmental and transportation services in the form of clean water, the disposal and recycling of household goods and rubbish, effective sanitary and storm sewers and safe bridges, highways, streets and sidewalks.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the commissioner of public works and parks ("commissioner") who shall be appointed by, and shall serve at the pleasure of, the city manager.

(b) *Duties and Responsibilities.* The commissioner shall be responsible for the performance of the functions of the department and shall:

- (14) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department and its divisions;
- (15) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities,

- deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (16) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;
  - (17) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
  - (18) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
  - (19) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
  - (20) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
  - (21) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department, or any of its divisions, by the city manager and the city council;
  - (22) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
  - (23) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;
  - (24) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager;
  - (25) represent the city as a member of the Upper Blackstone Water Pollution Abatement District; and,
  - (26) perform all duties prescribed by chapter two hundred ten of the acts of 1939, as amended, except as may be otherwise provided.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the commissioner and include an assistant commissioner of administration &

finance, an assistant commissioner of operations, an assistant commissioner of engineering & architectural services, an assistant commissioner of parks, and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

## § 5. Organization of Department

(a) *Establishment of Divisions.* The department shall be organized into the following divisions for the following purposes:

*Administration & Finance Division* - to manage the finances of the department and to assist the commissioner in the performance of duties and responsibilities as the of the head of the department;

*Operations Division* - to operate and manage the fresh water supply and sanitary and storm sewer facilities and systems of the city; to provide sanitation and hazardous waste collection programs; to manage and maintain all highways, streets, sidewalks and bridges belonging to the city, including related snow removal and pavement marking operations; and, to manage central garage and other miscellaneous activities of the department.

*Engineering & Architectural Services Division* - to provide engineering services for streets, sidewalks, bridges, water and sewer programs, conservation commission and other permitting issues and for other city capital facility projects as directed; to develop and manage the regulations governing traffic and parking in the city and city-owned parking facilities and provide traffic planning analysis and recommendations.

*Parks Division* - to manage, maintain, develop and improve the parks, recreation and forestry facilities of the city and to operate and maintain Hope Cemetery as a facility for public and private internments.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division shall also have the duty and responsibility to:

- (11) assist the commissioner in the performance of duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the commissioner or otherwise prescribed by law;
- (12) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the commissioner;
- (13) supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating

the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the commissioner up to and including suspensions for no more than five working days;

- (14) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (15) keep the commissioner informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (16) recommend to the commissioner implementing the rules, policies and practices governing the operations of the department as are approved by the commissioner; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the commissioner;
- (17) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the commissioner;
- (18) make recommendations to the commissioner on changing or initiating any policy, operation, program or service to the public;
- (19) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the commissioner; and,
- (20) maintain any property assigned to the division by the commissioner.

(c) *Management of Multiple Divisions.* The commissioner, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the department, said individual may be a division head with responsibility for one or more divisions or an assistant or deputy commissioner with responsibility for more than one division head.

## **§ 6. Administration & Finance Division**

(a) *Division Head.* The assistant commissioner of administration & finance of the department shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The assistant commissioner of administration & finance of the department shall:

- (7) operate the customer service center, a central office for the processing of citizen service requests for city services of all types and from all departments, including services delivered during emergencies;
- (8) manage the processing of payroll, purchasing, contracts, and personnel documentation for the department;
- (9) manage and administer landfill and solid waste issues;

- (10) manage and administer correspondence and reporting to the city manager and other city departments and outside agencies;
- (11) assist the commissioner in the performance of his or her duties and responsibilities as the of the head of the department; and,
- (12) perform the duties and responsibilities listed in section 5(b)(1-10) above.

## **§ 7. Operations Division**

(a) *Division Head.* The assistant commissioner of operations shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities .* The assistant commissioner of operations shall:

- (22) manage, maintain, construct, repair and replace all reservoirs, dams, watershed protection interests, and filtration facilities of the city;
- (23) ensure that the water supplied by the city complies with all state and federal water quality standards;
- (24) construct, maintain, repair and replace city sanitary and storm sewers, drains, pump stations and sewage treatment facilities;
- (25) perform catch-basin cleaning, pumping station maintenance, inspection and diagnosis of the sewer systems, general infrastructure maintenance, easement maintenance and clearing and flood control, including street drainage;
- (26) ensure that the discharges from the sewer and storm drains of the city comply with all state and federal water quality standards;
- (27) represent the city as a member of the Upper Blackstone Water Pollution Abatement District; and,
- (28) collect, recycle and dispose of household waste products programs of the city
- (29) maintain and repair city vehicles;
- (30) construct, maintain, repair and replace city highways, bridges, streets and sidewalks, including street lighting;
- (31) manage and maintain all highways, streets, sidewalks and bridges belonging to the city, including all snow removal activities related thereto;
- (32) keep a separate record of the names of all streets which shall be accepted, laid out and established;
- (33) keep a record of all sidewalks that now are or hereafter may be laid out and established by the city council, including the width, height and grade of the same and setting boundaries and measurements thereof, with the date of such laying out;
- (34) administer the collection, recycling and disposal of household solid waste programs of the city, including the distribution and

sale of approved trash disposal bags, recycling bins and the like;

- (35) implement, enforce and propose changes to the policies, practices, ordinances and laws governing the collection, recycling and disposal of household solid waste;
- (36) organize and operate bulk collection, household hazardous waste collection and educational programs;
- (37) have charge of all traffic control devices, signage and on-street parking control facilities and equipment;
- (38) maintain the parking ordinance schedules of the city;
- (39) enforce the parking ordinances of the city with the issuance of parking violation notices by civilian personnel;
- (40) maintain a traffic control plan for the city and make recommendations on any proposal which may affect such a plan;
- (41) serve as the clerk and otherwise administer the operations of the off-street parking board; and,
- (42) perform the duties and responsibilities listed in section 5(b)(1-10) above.

(c) *Pavement Markings.* The director of traffic engineering, with the approval of the commissioner, shall have authority to locate, place and designate on public highways, within the city, such pavement markings on highways as he or she shall deem necessary, proper and expedient, but in accordance with section two of chapter eighty-five of the General Laws, in addition to those markings that the city council shall from time to time ordain.

## **§ 8. Engineering & Architectural Services Division**

(a) *Division Head.* The assistant commissioner of engineering & architectural services shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The assistant commissioner of engineering & architectural services shall:

- (12) provide engineering services, make all surveys, measurements, levels and estimates and keep all plans for all highways, streets, sidewalks, parks, recreation facilities, bridges, dams, the sewer systems, the watershed and water filtration and distribution systems, recycling and waste disposal facilities, hope cemetery and other engineering structures that may be under the care, custody and control of the department;
- (13) develop, implement, manage and conduct capital projects for any city facility under the care, custody and control of the commissioner and, when requested by the commissioner, for any other city facility, or any group thereof as determined by the city manager, including those now under the care, custody and control of the Worcester Redevelopment Authority, Worcester Regional Airport Commission, the Civic Center Commission, the

Memorial Auditorium Trustees, the Lincoln Square Memorial Trustees; and, the Elder Affairs Commission (senior center);

- (14) administer the award and implementation of contracts concerning any capital project; provided, however, that in the case of any such contract involving property under the care, custody and control of any city officer, agency, board of commission, other than the department of public works and parks, no such contract shall be presented for the approval of the commissioner and city manager unless the assistant commissioner of engineering & architectural services has received a written authorization from the chief financial officer that sufficient funds have been appropriated either to the department of public works and parks, or the department, agency, board or commission with care of the facility;
- (15) provide architectural design and construction management services on any city capital facility project, such services to include:
  - (F) the preparation of construction plans and specifications in compliance with all applicable building and engineering codes and engineering and architectural standards;
  - (G) the preparation and filing of applications for any and all permits and approvals necessary to implement and complete any capital facility project;
  - (H) the administration of the public bidding laws for the award of capital facility improvement contracts
  - (I) the preparation of feasibility studies, master plans, building programs, engineering studies, environmental assessments, cost estimates, conceptual design and design development plans and the like; and,
  - (J) construction management services as defined in chapter one hundred ninety-three of the acts of two thousand and four.
- (16) serve as the clerk and keeper of the records of the designer selection board;
- (17) maintain the parking ordinance schedules of the city;
- (18) enforce the parking ordinances of the city with the issuance of parking violation notices by civilian personnel;
- (19) maintain a traffic control plan for the city and make recommendations on any proposal which may affect such a plan;
- (20) serve as the clerk and otherwise administer the operations of the off-street parking board;
- (21) serve as the clerk and keeper of the records of the conservation commission; and,
- (22) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Consultation with Disabilities Commission.* At the earliest practical stage in any capital project, the assistant commissioner of operations, or his or her designee, shall review the plans for any such project with the commission of disability established by these ordinances to explain the compliance of the plans with architectural access regulations and codes and to ascertain whether any changes in such plans are feasible to

improve building and facility access beyond that which said regulations and codes may require.

**§ 9. Parks Division**

(a) *Division Head.* The assistant commissioner of parks shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The assistant commissioner of parks shall:

- (10) maintain and manage all of the city parks and playgrounds, including city hall and the common, together with such other properties and facilities as may be placed under the responsibility of the division;
- (11) issue, under general regulations adopted by the parks and recreation commission, permits and licenses for the use of the parks, recreation and other facilities under the care of the division;
- (12) inform the public about the parks and recreation programs and systems;
- (13) have charge of Green Hill Golf Course facility and operate it as an enterprise on behalf of the city;
- (14) maintain and manage Hope Cemetery;
- (15) supervise the conduct of internments;
- (16) apply funds deposited with the city treasurer for the preservation, care, improvement or embellishment of any public burial place in accordance with law; and,
- (17) administer and serve as the keeper of the records of the Parks & Recreation Commission and the Hope Cemetery Commission; and,
- (18) perform the duties and responsibilities listed in section 5(b)(1-10) above.

**§ 10. Civic Center Commission**

(a) *Establishment.* Under authority of chapter 216 of the Acts of 1976, as amended, and Article X, § 10-6(a)(2), of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Civic Center Commission" ("commission").

(b) *Membership.* The commission shall consist of five persons, residents of the city, who shall be appointed by the city manager with the approval of the city council. The members of the commission shall serve for terms of five years. The terms shall be staggered such that one term expires on October fourth of every year. The chair of the commission shall be designated by the city manager.

(c) *Duties & Responsibilities.* The board shall:

- (5) have care, custody and control of the arena and convention center facility known as the "DCU Center" and such other

facilities as the city council may from time to time place under the care, custody and control of the commission;

- (6) perform and exercise the authority granted by the duties prescribed in chapter 216 of the Acts of 1976; and,
- (7) adopt rules and regulations in accordance with law for the conduct of its affairs and the operation of any facility under its care, custody and control; and,
- (8) perform such other duties as may be prescribed by law.

#### **§ 11. Conservation Commission**

(a) *Establishment of Conservation Commission.* Under authority of General Laws chapter forty, section eight C, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a regulatory board of the city to be known as the "Conservation Commission".

(b) *Membership.* The conservation commission shall consist of seven members who shall be appointed by the city manager for a term of three years. The terms shall expire on September thirtieth of each year and shall be staggered such that two terms expire each year for two years and three terms shall expire every third year.

(c) *Duties & Responsibilities.* It shall be the duty and responsibility of the conservation commission to perform all duties prescribed by General Laws, chapter forty, section eight C; the city wetlands ordinance, and, all such other duties as may be prescribed by law.

#### **§ 12. Designer Selection Board**

(a) *Establishment of the Designer Selection Board.* Under authority of Article Six of the Home Rule Charter and in compliance with General Laws chapter seven, section thirty-eight K, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Designer Selection Board" ("board").

(b) *Membership.* The board shall consist of five regular members and three alternate members designated by the city manager from existing regular employees of the city. The city manager shall from time to time select one member to be the chair.

(c) *Duties & Responsibilities.* The board shall have the duty and responsibility to carry-out the selection procedures adopted by executive order of the city manager relative to the award of design services contracts as required by G.L. chapter seven, section thirty-eight A and one-half and to perform such other duties and assignments as the city manager may request.

#### **§ 13. Hope Cemetery Commission**

(a) *Establishment of Hope Cemetery Board.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Hope Cemetery Board" ("board").

(b) *Membership.* The Hope Cemetery Board shall consist of five members appointed by the city manager for three year terms. The terms shall be staggered such that two terms shall expire on December thirty-first for two successive years and one term shall expire on December thirty-first every third year.

(c) *Duties & Responsibilities.* It shall be the duty and responsibility of the board to advise and make recommendations to the city manager and the Commissioner of Parks on matters affecting Hope Cemetery, including the use of Cemetery land and the conduct of internments.

#### **§ 14. Lincoln Square Memorial Board**

(a) *Establishment.* Under authority of General Laws chapter forty-one, section one hundred five, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Board of Trustees for the Lincoln Square Memorial" ("board").

(b) *Membership.* The board shall consist of five members appointed for three year terms by the city manager. The terms shall be staggered such that two terms shall expire on August thirty-first of two consecutive years and one term shall expire on August thirty-first of the following year.

(c) *Duties & Responsibilities.* The board shall have care, custody and control of the Lincoln Square Memorial for the men and women who served in the First World War for the United States of America and perform such other duties as may be prescribed by law.

#### **§ 15. Memorial Auditorium Board of Trustees**

(a) *Establishment.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Memorial Auditorium Board of Trustees" ("board").

(b) *Membership.* The board shall consist of five persons, residents of the city, who shall be appointed by the city manager for terms of five years staggered such that one term expires on November eleventh of every year. No more than three members of the board shall be veterans. The chair of the commission shall be designated by the city manager.

(c) *Duties & Responsibilities.* The board shall:

- (4) have care, custody and control of the Memorial Auditorium as a memorial to the inhabitants of the city who served in the armed forces during times of war;
- (5) perform and exercise the authority granted by chapter forty-one, section one-hundred and five, of the General Laws, or any such other duties as may be prescribed by law; and,
- (6) adopt rules and regulations in accordance with law for the conduct of its affairs and the operation of the Memorial Auditorium.

## **§ 16. Off-Street Parking Board**

(a) *Establishment of the Off-Street Parking Board.* Under authority of chapter 365 of the Acts of 1955 and Article Ten, § 10-6(a)(3), of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Off-Street Parking Board" ("board").

(b) *Membership.* The board shall consist of five members appointed by the city manager for staggered terms of four years each. The terms shall be staggered such that one term shall expire every June thirtieth for four successive years and no term shall expire every fifth year. The city manager shall designate the chair of the board.

(c) *Duties & Responsibilities.* The board shall:

- (5) have care, custody and control of the off-street parking facilities of the city, which shall include surface parking lots (including meters), parking structures and parking garages;
- (6) set the fees for the use of off-street parking facilities at such rates that the revenue therefrom shall be adequate to cover the expenses of the city for off-street parking, as defined in chapter 365, Acts of 1955, as amended;
- (7) promulgate rules and regulations regarding the use and operation of the off-street parking facilities under its care, custody and control; and,
- (8) perform such other duties as may be prescribed by law.

(d) *Deposit of Receipts.* Unless otherwise provided by law, receipts from the use of off-street parking facility shall be collected and deposited with the city treasurer, who shall keep the same in a separate account known as the off-street parking fund to be expended in accordance with law.

## **§ 17. Parks And Recreation Commission**

(a) *Establishment of the Parks & Recreation Commission.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Parks & Recreation Commission" ("commission").

(b) *Membership.* The commission shall consist of seven members appointed by the city manager for three year terms. The terms shall be staggered such that two terms shall expire on April thirtieth for two successive years and three terms shall expire on April thirtieth every third year. The commission shall perform the duties and exercise the authority prescribed by law; provided, that the commission shall have no authority over matters involving Hope Cemetery.

(c) *Duties & Responsibilities.* The commission shall:

- (5) have general superintendence over the public parks and playgrounds of the city, including the golf course at Green Hill;

- (6) promulgate rules and regulations governing the use of the parks, playgrounds and facilities under its general superintendence as such authority is granted by the General Laws chapter forty-five, section five;
- (7) make reports and recommendations to the commissioner concerning the acquisition of new parks and playgrounds; and,
- (8) perform such other duties as may be prescribed by law.

**Article 6. Police Department**

- § 1. Establishment
- § 2. Function
- § 3. Head of Department
- § 4. Authorized Positions
- § 5. Records of Persons Arrested
- § 6. Duties at Fires
- § 7. Assistance to Other Cities and Towns
- § 8. Auxiliary Police
- § 9. Special Police Officers
- §10. Constables
- §11. Excusing Members from Duty
- §12. Holiday and Overtime Pay
- §13. Off-Duty Employment of Police Officers
- §14. Uniforms and Vehicles
- §15. Rules and Regulations

Related Commission:

- § 16. License Commission
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Police Department" ("department").

**§ 2. Function**

It shall be the function of the department to provide law enforcement and police services for the city except as otherwise provided for in the Civil Defense Act, chapter 639, Acts of 1950, and to provide and maintain public safety communications services for the city.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the chief of police ("chief") who shall be appointed by, and shall serve at the pleasure of, the city manager, unless otherwise provided by law.

(b) *Duties and Responsibilities.* The chief shall be responsible for the performance of the functions of the department and shall:

- (18) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (19) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;

- (20) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (21) enforce all laws, ordinances, rules and regulations affecting the public;
- (22) receive and answer complaints of violations of law, ordinances, and rules and regulations affecting the public;
- (23) supervise and direct the officers and civilians in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (24) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the peace, security and good order of the city;
- (25) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (26) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (27) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (28) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (29) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (30) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council;
- (31) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (32) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;

- (33) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager; and,
- (34) perform all duties prescribed by chapter forty-one, section ninety-eight of the General Laws and the rules and regulations of the department.

(c) *Conflict with State Law.* Nothing in this section shall be deemed to conflict with the General Laws or abridge the powers and authority vested by the city charter in the city manager as the chief conservator of the peace of the city.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the chief of police and such deputy police chiefs, captains, lieutenants, sergeants and other officers and civilian employees as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Duties and Responsibilities of Deputy Chiefs and Subordinate Officers.* The deputy chiefs of police shall aid the chief in the performance of the duties and responsibilities prescribed by this section and shall perform any lawful act directed or commanded by the chief. All other officers of the department shall perform any lawful act directed or commanded by their superiors, in accordance with the rules and regulations of the department.

(c) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

#### **§ 5. Records of Persons Arrested**

The chief shall cause to be kept at police headquarters a complete descriptive list of each and every person arrested. Such list shall contain the arrested person's name, address, nativity, age, height, complexion, weight, color of hair and eyes, the amount of money and a list of other valuables found on such person, all offenses for which he or she has been arrested and any other information that the chief may deem appropriate. All of the above shall be entered and indexed in a book to be furnished by the city. Said book shall be delivered by each chief to his or her successor in office.

#### **§ 6. Duties at Fires**

(a) It shall be the duty of the department to aid the fire department by giving alarms in case of fire and clearing the streets and grounds in the immediate vicinity of the fire, so that the members of the fire department shall not be hindered in the performance of their duties.

(b) The officers of the department shall have the authority to rope off the streets and grounds in the vicinity of a fire or any other catastrophe or emergency and to prevent all persons, except members of the fire department and other emergency personnel, from passing inside the lines.

#### **§ 7. Assistance to Other Cities and Towns**

The chief is authorized to extend such aid as he may deem necessary to another city or town at the request of the city or town in suppression of riots and other forms of violence therein, provided, however, the chief shall receive prior approval of the city manager before extending assistance outside the greater Worcester area.

#### **§ 8. Auxiliary Police**

The city manager may appoint members of the auxiliary police as "special police officers," and the department may contract, subject to appropriation by the city council and upon approval of the city manager, for the voluntary service of said members of the auxiliary police and for the purchase of appropriate insurance coverage for such members while on duty and under the direction of the chief.

#### **§ 9. Special Police Officers**

The city manager may appoint special police officers for a term of a calendar year, and he may remove the same at any time. Special police officers shall have and exercise police powers only for the area designated by the city manager and shall be subject to such conditions as the city manager shall establish. No special police officer shall carry a weapon while on duty unless he has received special permission to do so by the chief. An application fee of fifteen dollars shall be paid by any person who applies for appointment as a special police officer.

#### **§ 10. Constables**

(a) The city manager may appoint constables pursuant to the requirements of G.L. chapter forty-one, sections ninety-one and ninety-one B for a term of one year commencing on January first and ending at 11:59 p.m. on December thirty-first of each calendar year. No person who is not a resident of the city shall be eligible for appointment as a constable; provided, however, that the foregoing provision shall not apply to regular full-time employees of the city who are required by the terms of their employment with the city to become constables. The city manager shall, from time to time, as public good may require, establish the number of constables to be appointed in the city. The chief shall investigate each applicant's fitness and qualifications under law for appointment as a constable. Any applicant seeking appointment or reappointment shall pay an application fee of one hundred dollars. Each constable shall give the bond to the city in the amount required by the city, with sureties approved by the city, and shall file the bond, with the approval of the city manager endorsed thereon, with the city clerk.

#### **§ 11. Excusing Members from Duty**

The time and manner of excusing members of the department from duty shall be determined by the chief. A member so excused shall be exempt from duty and from attendance at a police station or other place, but otherwise shall be subject to all laws and rules and regulations relating to the members of the department. The chief shall have authority, whenever, in his or her judgment, any public emergency or any unusual demand for the services of the police requires, to prevent any members of the department from taking time off when the member is entitled thereto at the time assigned therefor, or to recall such uniform members back to duty for such duration and to such extent as the chief deems necessary.

#### **§ 12. Holiday and Overtime Pay**

For the purpose of computing holiday pay and overtime pay due police officers in accordance with the provisions of General Laws, chapter one hundred forty-seven, sections seventeen A and seventeen C, the words "police officer" shall be construed to include police chief, deputy chiefs, captains, lieutenants, sergeants and patrol officers.

#### **§ 13. Off-Duty Employment of Police Officers**

No police officer shall, during his or her off-duty hours, enter the employ of any person, firm, corporation, or engage in any gainful occupation without the express written permission of the chief. In granting of any such permission, the chief shall first determine that:

- (4) such employment or occupation will not impair the police officer's efficiency as a police officer;
- (5) such employment or occupation is not incompatible with his employment as a police officer nor tend to bring into disrepute the department; and,
- (6) such employment or occupation will not seriously impair or affect the employment of others engaged in like employment or occupation.

#### **§ 14. Uniforms and Vehicles**

The chief shall determine and authorize the type, style and color of uniforms of members of the police department and the color schemes, insignia, lighting attachments and identification of all motor vehicles of the police department; and, except as otherwise provided by law, no person shall wear a similar uniform or drive a similar motor vehicle that gives the impression of an official Worcester police uniform or motor vehicle. Uniforms and motor vehicles of any private police, security police, special police, civilian watchman, private guards, animal guards or other private persons, with or without police powers, including charitable or business corporations, that come within the above prohibition may be worn or driven if the use of such uniform or motor vehicle is approved in writing by the chief.

#### **§ 15. Rules and Regulations**

The city manager shall promulgate rules and regulations as may be deemed necessary for the department and its personnel.

## § 16. License Commission

(a) *Establishment of the License Commission.* Under authority of chapter 461 of the Acts of 1914 and section fifty-four of chapter 444 of the Acts of 1893, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a regulatory commission of the city to be known as the "License Commission" ("commission").

(b) *Membership.* The commission shall consist of three persons, residents of the city, who shall be appointed by the city manager. The members of the commission shall serve terms of four years, which shall begin on January first and end on December thirty-first four years hence, and shall be staggered as such that no two terms shall expire at the same time. Vacancies shall be filled for the unexpired portion of the term vacated. The city manager shall annually designate one member of the commission as its chair.

(c) *Duties & Responsibilities.* The commission shall have the duty and responsibility to:

- (10) perform all actions and issue licenses authorized by chapter one hundred thirty eight of the General Laws relative to the sale of alcoholic beverages, wines or malt beverages;
- (11) establish reasonable fares for the conveyance of passengers in taxicabs, liveries, or any other truck, wagon or vehicle licensed under these Revised Ordinances;
- (12) conduct hearings and decide questions of the revocation of any taxicab, livery or other vehicle license issued under these Revised Ordinances;
- (13) perform all actions and issue any other license required by the General Laws to be issued by a local license commission;
- (14) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (15) hear all appeals on decisions made by any licensing authority concerning any license issued under chapter eleven of these Revised Ordinances;
- (16) perform all duties required of it by any other provision of these Revised Ordinances;
- (17) perform any function or take any other action prescribed or authorized by law concerning the issuance of licenses by local licensing authorities; and,
- (18) make and issue rules and regulations in accordance with law for the conduct of its affairs.

**Article 7. Communications Department**

- § 1. Establishment
  - § 2. Function
  - § 3. Head of Department
  - § 4. Authorized Positions
  - § 5. Licenses
  - § 6. Conflict with State Law
  - § 7. Regulations
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Communications Department" ("department").

**§ 2. Function**

It shall be the function of the department to provide and maintain public safety communications services for the city.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by a communications director ("director"), who shall be appointed by and shall serve at the pleasure of the city manager.

(b) *Duties & Responsibilities.* The director shall be responsible for the performance of the functions of the department and shall:

- (19) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (20) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;
- (21) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (22) provide and maintain radio and telecommunications and services and facilities for all city departments and agencies including the school department;
- (23) operate and maintain a central communications center for all public safety communications, keep audio recordings of emergency telephone activity and public safety radio transmissions, and make the same available to public safety agencies as their needs might require;
- (24) supervise and direct the employees in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing

- priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (25) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the peace, security and good order of the city;
  - (26) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
  - (27) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
  - (28) identify, acquire, maintain and renew any license necessary or useful in carrying out the duties and responsibilities of this section;
  - (29) allocate and assign various portions of the radio and telecommunications facilities of the city to the various city departments and agencies;
  - (30) ensure compliance with all state or federal laws and regulations concerning the radio and telecommunications facilities and services provided by the department;
  - (31) administer the department and its employees and, to inform the heads of city departments or divisions whenever employees of such departments or divisions fail to comply with applicable laws, regulations, training or practices required or recommended by the department;
  - (32) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
  - (33) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
  - (34) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council;
  - (35) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager; and,
  - (36) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

#### **§ 4. Authorized Positions**

The department shall consist of the director and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

#### **§ 5. Licenses**

The director with the approval of the city manager, may issue licenses to any public or private entity interested in utilizing any radio or telecommunication service or facility under the care, custody and control of the department. No such license shall be issued unless 1) the director determines in writing that the service or facility usage permitted by the license shall not materially diminish the radio or telecommunications services or facilities required by city departments and agencies; and, 2) the licensee pays a license fee to the city. The director shall, with the approval of the city manager, establish appropriate fees for such licenses. Any license issue under this section shall not exceed a term of twelve months, but may be renewable or self-renewable for additional one year periods, and shall be revocable at the will of the director.

#### **§ 6. Conflict with State Law**

Nothing in this section shall be deemed to conflict with the General Laws or abridge the authority vested in the city manager, the chief of police, or the chief of the fire department.

#### **§ 7. Regulations**

The director may promulgate such rules and regulations as may be deemed necessary or proper to the purposes of this article.

**Article 8. Fire Department**

- § 1. Establishment
- § 2. Function
- § 3. Head of Department
- § 4. Authorized Positions
- § 5. Fire Prevention Bureau
- § 6. Training Bureau
- § 7. Maintenance Bureau
- § 8. Housing Division
- § 9. Authority of Chief at Fires & Emergencies
- §10. Disability of Chief
- §11. Advisory Board
- §12. Aid to Other Cities and Towns
- §13. Fire Inspection Companies
- §14. Excusing Uniform Members from Duty
- §15. Off-Duty Employment of Firefighters
- §16. Traffic Control by Uniform Members
- §17. Drawing Water from Hydrants or Reservoirs
- §18. Taking Department Property Out of the City
- §19. Rules and Regulations

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department to be known as the "Fire Department" ("department").

**§ 2. Function**

It shall be the function of the department to provide fire suppression and protection services, first responder and emergency response management services for the city.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the chief engineer who shall be known as the "fire chief" ("chief") who shall be appointed by, and shall serve at the pleasure of, the city manager, unless otherwise provided by law.

(b) *Duties and Responsibilities.* The chief shall be responsible for the performance of the functions of the department and shall:

- (20) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (21) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;

- (22) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (23) perform all duties prescribed by chapters forty-eight and one hundred and forty-eight of the General Laws and by rules and regulations of the department;
- (24) provide fire protection, firefighting and other emergency service for the city, including, but not limited to, salvage and overhauling operations;
- (25) act as the agent of the city manager in the preparation, planning, organization, maintenance, administration and operation the emergency response management and civil defense duties and activities of the city as the same may be authorized or required by law, including chapter 639 of the Acts of 1950 and any regulations promulgated thereunder, or any declaration of emergency issued by the city manager, the governor or the president of the United States;
- (26) supervise and direct the officers and civilians in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department and providing each firefighter with a manual containing the rules and regulations of the department and pertinent ordinances and to enforce the same; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (27) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the safety, security and good order of the city;
- (28) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (29) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (30) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (31) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager;
- (32) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home

rule charter, the Constitutions and laws of the commonwealth and the United States of America;

- (33) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (34) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (35) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager;
- (36) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager;
- (37) conduct the inspections prescribed in the General Laws and the fire prevention code; and
- (38) possess the duties and authorities of a forest warden as contained the General Laws, chapter 48, section eight through twenty-eight C.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the chief and such deputy chiefs, district chiefs, captains, lieutenants, firefighters and civilian employees as the city council, with the advice of the city manager, shall from time to time authorize.

(b) *Duties and Responsibilities of Deputy Chiefs and Subordinate Officers.* The deputy chiefs shall aid the chief in the performance of the duties and responsibilities prescribed by this section and shall perform any lawful act directed or commanded by the chief. All other officers of the department shall perform any lawful act directed or commanded by their superiors, in accordance with the rules and regulations of the department.

(c) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

#### **§ 5. Fire Prevention Bureau**

There is hereby established a fire prevention bureau within the department under the jurisdiction of the chief. The fire prevention bureau shall be in the charge of the chief inspector who shall be designated by the chief and shall:

- (4) administer the fire prevention bureau;

- (5) perform the inspection duties prescribed by the General Laws and the fire prevention code; and,
- (6) perform such other duties as may be prescribed by the chief.

#### **§ 6. Training Bureau**

There is hereby established within the department a training bureau under the jurisdiction of the chief. The bureau shall be in the charge of a chief of training who shall be designated by the chief and shall:

- (5)administer the training bureau;
- (6)develop, deliver, test and document mandatory and non-mandatory firefighter development training programs to the members;
- (7)develop, test and document in-service training programs; and,
- (8)perform such other duties as may be prescribed by the chief.

#### **§ 7. Maintenance Bureau**

There is hereby established a maintenance bureau within the department, under the jurisdiction of the chief. The maintenance bureau shall be in the charge of the director of fire apparatus repair and maintenance who shall be designated by the chief and shall:

- (5)administer the maintenance bureau;
- (6)develop, test, repair, maintain, and document procedures that assure that apparatus and firefighting equipment belonging to the department are in proper working order;
- (7)maintain an inventory, including fire station supplies that will allow the department to function on a daily basis;
- (8)perform such other duties as may be prescribed by the chief.

#### **§ 8. Emergency Response Management Bureau**

There is hereby established an emergency response management bureau within the department, under the jurisdiction of the chief. The bureau shall be responsible for the operation and coordination of the emergency response management functions of the department and shall:

- (9)administer the emergency response management bureau;
- (10) develop, test, maintain, and document procedures and protocols for the coordination of state, local and federal agencies responding to any emergency as described herein;
- (11) develop, test, maintain, and document interoperability communications protocols for the coordination of state, local and federal agencies responding to any emergency;
- (12) provide training in emergency response matters for members of the department, members of other city departments, employees of any other city or town in Worcester County, volunteers and the public in general;
- (13) maintain an inventory of equipment and supplies which would be required during any emergency response;

- (14) maintain liaison with the state and federal civil defense and emergency management agencies and cooperate with such agencies in carrying out the national program for civil defense and the state program for emergency management;
- (15) maintain complete records of all matters relating to any response to any such emergency, including records of all expenditures for salaries, overtime, supplies, services and equipment made or incurred as part of any such response;
- (16) perform such other duties as may be prescribed by the chief.

#### **§ 9. Authority of Chief at Fires & Emergencies**

The chief, or, in his absence, the officer in charge, shall have sole command at the location of any fire or during the emergency response as described in this section over all members of the department and all other persons who may be present and shall have authority to direct all measures for the extinguishment of fires, protection and preservation of property, preservation of order and the observance of laws, ordinances and rules and regulations respecting fires.

#### **§ 10. Disability of Chief**

The city manager shall determine what officer shall act, with full duties and authority, in the place of the chief or other officer during the absence or disability of such chief or other officer.

#### **§ 11. Advisory Board**

There shall be within the department an advisory board of chiefs, which shall act as an advisory board to the chief. The board shall consist of the deputy and district chiefs of the department, and the chief, who shall be its chair. The advisory board of chiefs shall meet only on the call of the chief and shall render such assistance or advice as the chief may request.

#### **§ 12. Aid to Other Cities and Towns**

The chief is authorized to extend such aid as he may deem necessary to another city, town, fire district or area under federal jurisdiction in the Central Massachusetts Regional Planning District or outside the district, with the approval of the city manager, but within the commonwealth for extinguishing fires therein.

#### **§ 13. Fire Inspection Companies**

It shall be the duty of the chief to divide the city into as many fire inspection areas as there are companies, and to assign an area to each company for inspection, according to the rules and regulations of the department. Any firefighter, while making such inspection, shall be in uniform and wear the badge of the department. Records of these inspections shall be kept at the office of the chief and shall be available for inspection by the city manager or the city council. The chief, in his annual report, shall give the results of these inspections by area, stating the number of inspections made and a list

of cases requiring the enforcement of the provisions of the fire prevention code.

**§ 14. Excusing Uniform Members from Duty**

The time and manner of excusing uniform members of the department from duty shall be determined by the chief. A member so excused shall be exempt from duty and from attendance at a fire station or other place, but otherwise shall be subject to all laws and rules and regulations relating to a uniform member of the department. The chief shall have the authority, whenever in his judgment, any public emergency or any unusual demand for the services of the department requires, to prevent any uniform members of the department taking time off when the member is entitled thereto at the time assigned therefor or to recall such uniform member back to duty for such duration and to such extent as the chief deems necessary.

**§ 15. Off-Duty Employment of Firefighters**

No uniformed member of the department shall, during his or her off-duty hours, enter the employ of any person, firm, corporation, or engage in any gainful occupation without the express written permission of the chief. In granting of any such permission, the chief shall first determine that:

- (4) such employment or occupation will not impair the uniformed member's efficiency;
- (5) such employment or occupation is not incompatible with the uniformed member's employment as a firefighter nor tend to bring into disrepute the department; and,
- (6) such employment or occupation will not seriously impair or affect the employment of others engaged in like employment or occupation.

**§ 16. Traffic Control by Uniform Members**

Notwithstanding any contrary provisions of the Revised Ordinances, uniformed members of the department, if so authorized by the officer in charge, may direct traffic as may be required to permit fire vehicles to leave or enter a firehouse or to park at the scene of an emergency.

**§ 17. Drawing Water from Hydrants or Reservoirs**

No firefighter or any employee of the department shall draw water from the reservoirs or hydrants except in case of fire or other emergencies unless specifically authorized by the chief to do so.

**§ 18. Taking Department Property Out of the City**

No property belonging to the department shall be taken out of city limits unless by order of the chief or the city manager.

**§ 19. Rules and Regulations**

The city manager shall promulgate, with the approval of the city council, rules and regulations for the government of the department and its members.

**Article 9. Department of Inspectional Services**

- § 1. Establishment
- § 2. Function
- § 3. Head of Department
- § 4. Authorized Positions
- § 5. Organization of Department
- § 6. Administration Division
- § 7. Building and Zoning Division
- § 8. Housing Division
- § 9. Health Inspection Division

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department Inspectional Services" ("department").

**§ 2. Function**

It shall be the function of the department to provide services relating to the state building code, the zoning ordinance, the architectural access code, the state sanitary code and all other laws, codes, regulations and ordinances relating to health and human safety.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by the commissioner of inspectional services ("commissioner") who shall be appointed by, and shall serve at the pleasure of, the city manager.

(b) *Duties and Responsibilities.* The commissioner shall be responsible for the performance of the functions of the department and shall:

- (14) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department and its divisions;
- (15) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (16) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;

- (17) attend various neighborhood and community group meetings as directed by the city manager;
- (18) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (19) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (20) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (21) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (22) except in the case of property placed under the care, custody and control of the board of library trustees, have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department, or any of its divisions, by the city manager or the city council;
- (23) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and,
- (24) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (25) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (26) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the commissioner and include a building commissioner, a director of housing, a director of health inspections and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the department shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city

manager.

## § 5. Organization of Department

(a) *Establishment of Divisions.* The department shall be organized into the following divisions for the following purposes:

*Administration Division* - to assist the commissioner in the performance of the duties and responsibilities as the of the head of the department;

*Building and Zoning Division* - to provide information, assistance and enforcement of building, zoning, housing and architectural access codes, laws, ordinances and regulations.

*Housing Division* - to focus on issues affecting the housing stock and to provide information, assistance and enforcement of the state sanitary code and any other state law or city ordinance, rule or regulation concerning places of human habitation.

*Health Inspection Division* - to provide inspections, education and enforcement of all laws, codes, regulations and ordinances relating to human health and safety.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division shall also have the duty and responsibility to:

- (11) assist the commissioner in the performance of duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the commissioner or otherwise prescribed by law;
- (12) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the commissioner;
- (13) supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the commissioner up to and including suspensions for no more than five working days;
- (14) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (15) keep the commissioner informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (16) recommend to the commissioner implementing the rules, policies and practices governing the operations of the department as are approved by the commissioner; prepare, implement and evaluate division operations, programs and

projects in accordance with the goals and objectives established for the division by the commissioner;

- (17) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the commissioner;
- (18) make recommendations to the commissioner on changing or initiating any policy, operation, program or service to the public;
- (19) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the commissioner; and,
- (20) maintain any property assigned to the division by the commissioner.

(c) *Management of Multiple Divisions.* The commissioner, with the advice and consent of the city manager, may also serve as the head of any division and may assign the responsibilities of any two or more divisions to one individual in the service of the department.

#### **§ 6. Administration Division**

(a) *Division Head.* The director of administration shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of administration of the department shall:

- (4) manage the processing of payroll, purchasing, contracts, and personnel documentation for the department; and,
- (5) assist the commissioner in the performance of his or her duties and responsibilities as the head of the department; and,
- (6) perform the duties and responsibilities described in section 5(b)(1-10) above.

#### **§ 7. Building and Zoning Division**

(a) *Division Head.* The building commissioner shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The building commissioner shall be responsible for the performance of the functions of the division and shall:

- (6) possess and exercise all of the powers, duties and responsibilities vested by section three of chapter one hundred forty three of the General Laws in a building commissioner, including the authority to:

- (A) administer and enforce the state building code pursuant to chapter one hundred forty three of the General Laws and the regulations adopted pursuant thereto;
  - (B) administer and enforce the provisions of the architectural access board pursuant to chapter twenty-two, section thirteen A, of the General Laws and the regulations adopted pursuant thereto;
  - (C) administer and enforce the Zoning Ordinance adopted pursuant to chapter forty A of the General Laws; and,
  - (D) perform, in the absence of the director of housing, the duties vested by chapter one hundred twenty-seven A of chapter one hundred eleven of the General Laws, or any other statute, in a commissioner of housing inspection.
- (7) provide information and assistance concerning the potential application of the state building code, the architectural access regulations, the zoning ordinance and the state sanitary code to any person interested in or planning on developing, renovating or constructing new or existing buildings or property;
  - (8) exercise every authority provided by law to enforce building, housing and architectural access codes, laws, ordinances and regulations;
  - (9) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and,
  - (10) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Reporting Authority.* When administering and enforcing the state building code as well as the requirements of the architectural access board, the building commissioner shall be directly responsible to the city manager. In all other respects, including the administration and enforcement of the zoning ordinance, the building commissioner shall report to the commissioner. This provision shall not apply when the positions of commissioner and building commissioner are held by the same individual.

## **§ 8. Housing Division**

(a) *Division Head.* The director of housing shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

- (b) *Duties & Responsibilities.* The director of housing shall:
  - (6) perform the duties vested by chapter one hundred twenty-seven A of chapter one hundred eleven of the General Laws, or any other statute, in a commissioner of housing inspection;
  - (7) provide information and assistance concerning the potential application of the state sanitary code and any ordinance, rule or regulation of the city to any person interested in or planning on developing, renovating or constructing new or existing housing ;
  - (8) manage the programs and activities of the division;

- (9) perform such additional duties as may be assigned from time to time by the commissioner; and,
- (10) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 9. Health Inspection Division**

(a) *Division Head.* The director of health inspection shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of health inspection shall:

- (8) administer and manage the regulatory and inspectional services programs and activities of the division under the administrative superintendence of the commissioner of inspectional services, such programs and activities to include air & water safety and quality, lead paint, food protection, animal control and weights and measures;
- (9) administer, manage, implement and enforce the policies and regulations adopted by the commissioner of public health acting as the board of health established under article one of these ordinances;
- (10) keep the commissioner of inspectional services informed of the activities of the division and the information gathered by the division concerning health inspection and enforcement issues;
- (11) coordinate the department's inspection and enforcement activities with other agencies;
- (12) manage the programs and activities of the division;
- (13) investigate complaints and enforce the laws, ordinances, codes or regulations administered by the division; and,
- (14) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Inspectors of Animals.* Inspectors of animals shall be appointed annually by the city manager for a term of one year in accordance with the General Laws, chapter one hundred twenty nine, section fifteen.

**Article 10. Department of Health & Human Services**

- § 1. Establishment
- § 2. Function
- § 3. Head of Department
- § 4. Authorized Positions
- § 5. Organization of Department
- § 6. Administration Division
- § 7. Disability Division
- § 8. Elder Affairs Division
- § 9. Human Rights Division
- §10. Public Health Division
- §11. Transitional Housing Services Division
- §12. Veterans' Services Division

**Related Boards and Commissions:**

- §13. Board of Health
- §14. Disability Commission
- §15. Early Scholarship Committee
- §16. Elder Affairs Commission
- §17. Homelessness Commission
- §18. Human Rights Commission
- §19. Public Library Directors
- §20. Status of Women Committee

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**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Department of Health & Human Services" ("department").

**§ 2. Function**

It shall be the function of the department to improve the human spirit and condition of all residents of the city by promoting the public health, providing for the elderly and veterans, advancing human rights and the equality of women and the disabled and supporting the operation of the public library.

**§ 3. Head of Department**

(a) *Department Head.* The department shall be headed by a commissioner of health and human services ("commissioner") who shall be appointed by, and shall serve at the pleasure of, the city manager.

(b) *Duties and Responsibilities.* The commissioner shall be responsible for the performance of the functions of the department and shall:

- (14) have management responsibility and general superintendence over the functions, programs, services,

operations, activities and facilities of the department and its divisions;

- (15) supervise the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (16) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the financial condition of the city;
- (17) attend various neighborhood and community group meetings as directed by the city manager;
- (18) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (19) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (20) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;
- (21) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (22) except in the case of property placed under the care, custody and control of the board of library trustees, have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department, or any of its divisions, by the city manager or the city council;
- (23) organize multi-agency enforcement teams and to participate with personnel from other city agencies in joint inspection teams which may be established by the city manager; and,
- (24) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (25) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,

(26) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

#### **§ 4. Authorized Positions**

(a) *Table of Authorized Positions.* The department shall consist of the commissioner and include a commissioner of public health, a director of elder affairs, a human rights director, a head librarian, a director of veterans affairs and such other personnel as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

(b) *Manner of Appointment.* Each position in the department, except that of the head librarian, shall be filled by appointment of the city manager and each such appointee shall, unless otherwise expressly provided by law, serve at the pleasure of the city manager.

#### **§ 5. Organization of Department**

(a) *Establishment of Divisions.* The department shall be organized into the following divisions for the following purposes:

*Administration Division* - to assist the commissioner in the performance of the duties and responsibilities as the of the head of the department;

*Disability Division* - to bring about full and equal participation in all aspects of life in the city for all people with disabilities;

*Elder Affairs Division* - to enhance the quality of life for elders in Worcester by identifying needs, developing and implementing programs and services to meet those needs, advocating on behalf of elders and operating a focal point senior center within the city;

*Human Rights Division* - to assure that every individual shall have equal access to and benefit from all public services, to protect every individual in the enjoyment and exercise of civil rights and to encourage and bring about mutual understanding and respect among all individuals of the city;

*Public Health Division* -to preserve, promote and protect the physical and mental health of the people of the city by providing public health services for the city of Worcester;

*Public Library Division* - to provide library services to the residents of Worcester;

*Scholarships Division* - to select the recipients of various scholarship funds and trusts held by the city, including the Thomas J. Early Scholarship Fund;

*Status of Women Committee Division* - to formulate, encourage, promote and monitor programs and policies relating to the status of women in the city;

*Transitional Housing Services Division* -to coordinate the provision of multiple government-based services and programs to individuals and

families requiring immediate housing assistance and to administer the affairs of the commission on homelessness; and,

*Veterans' Services Division* - to provide services to veterans.

(b) *Duties & Responsibilities of Division Heads.* In addition to the special duties and responsibilities stated below for each division in the department, the head of each division (except for the head librarian as regards items (6) and (8) below) shall also have the duty and responsibility to:

- (11) assist the commissioner in the performance of duties and responsibilities of the head of the department and perform such other duties as may be assigned or requested by the commissioner or otherwise prescribed by law;
- (12) manage the budget for the division, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer, the city auditor or the commissioner;
- (13) supervise the personnel assigned to the division by assigning tasks and establishing work priorities, deadlines and work schedules for employees in the division; training employees in the specialized tasks of the division; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level authorized by the commissioner up to and including suspensions for no more than five working days;
- (14) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;
- (15) keep the commissioner informed of all matters pertaining to the activities, operations, programs, services, personnel, expenditures and receipts of the division;
- (16) recommend to the commissioner implementing the rules, policies and practices governing the operations of the department as are approved by the commissioner; prepare, implement and evaluate division operations, programs and projects in accordance with the goals and objectives established for the division by the commissioner;
- (17) ensure that all actions of the division are taken in accordance with all applicable laws, ordinances, regulations, contractual obligations, city executive orders and policies (including the financial procedures established by the city auditor) and the directives of the commissioner;
- (18) make recommendations to the commissioner on changing or initiating any policy, operation, program or service to the public;
- (19) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the commissioner; and,
- (20) maintain any property assigned to the division by the commissioner.

(c) *Management of Multiple Divisions.* The commissioner, with the advice and consent of the city manager, may assign the responsibilities of any two or more divisions to one individual in the service of the department.

#### **§ 6. Administration Division**

(a) *Division Head.* The director of administration shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties and Responsibilities.* The director of administration of the department shall:

- (4) manage the processing of payroll, purchasing, contracts, and personnel documentation for the department; and,
- (5) assist the commissioner in the performance of his or her duties and responsibilities as the head of the department; and,
- (6) perform the duties and responsibilities described in section 5(b)(1-10) above.

#### **§ 7. Disability Division**

(a) *Division Head.* The commission on disability director shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The commission on disability director shall:

- (4) assist the commission on disability in the performance of its legal duties and responsibilities;
- (5) administer the affairs of the commission on disability and serve as its keeper of the records; and,
- (6) perform the duties and responsibilities described in section 5(b)(1-10) above.

#### **§ 8. Elder Affairs Division**

(a) *Division Head.* The director of elder affairs shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of elder affairs shall:

- (15) administer the affairs of the commission and the senior center committee;
- (16) administer the programs and activities of the division;
- (17) collect facts and statistics and to conduct special studies affecting the health and welfare of the elderly population of the city;

- (18) encourage the development of programs for the elderly in Worcester;
- (19) identify the needs of the community's older population;
- (20) educate and to enlist the support of the community on the needs of the elderly;
- (21) promote the coordination of programs designed for the elderly in Worcester;
- (22) advise the public agencies of the city on matters affecting the elderly;
- (23) prepare reports to the commission and the city manager on state and federal legislation concerning the elderly, including but not limited to state and federal funds and programs available to the elderly;
- (24) cooperate with the executive office of elder affairs of the commonwealth;
- (25) manage and operate a senior center facility, which shall be the land and buildings acquired by the city of Worcester and located on Providence Street between Winthrop Street and Spurr Street ("senior center");
- (26) encourage and assure within the senior center the maximum level of coordination, collaboration and co-location of individuals and organizations, public and private, engaged in the delivery of services, programs and activities of interest to elders, such as: health insurance, caregiver, benefit and employment counseling services; medical and screening clinics; information and referral services on the issues of health, housing, transportation, education, legal assistance, consumer protection, public safety and support groups; on-site and delivered meals and emergency food distribution; literacy, citizenship and English-as-a-second-language instruction; vocational, cultural and computer programs; senior outreach; senior travel; recreational and wellness programs; dances; gardening; story telling; concerts and entertainment; transportation; day care for elders; and, child care for grandparents raising grandchildren;
- (27) execute on behalf of the department any contract, lease or any other legal document. Any such document involving two thousand dollars or more shall not be binding unless it is also signed by the city manager; and,
- (28) perform the duties and responsibilities described in section 5(b)(1-10) above.

## **§ 9. Human Rights Division**

(a) *Division Head.* The director of human rights shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of human rights shall:

- (6) administer the affairs of the human rights commission and serve as the keeper of its records;

- (7)manage the programs and activities of the division;
- (8)have the power and duty to initiate complaints and investigations of discriminatory practices, report his or her findings to the commission and attempt mediation or conciliation of any complaint alleging discrimination;
- (9)perform such additional duties consistent with the human rights ordinances as may be assigned from time to time by vote of the commission; and,
- (10) perform the duties and responsibilities described in section 5(b)(1-10) above.

(c) *Human Rights Policy.* It is the policy of the city to assure that every individual shall have equal access to and benefit from all public services, to protect every individual in the enjoyment and exercise of civil rights and to encourage and bring about mutual understanding and respect among all individuals of the city. It is clear that behavior which denies equal treatment to any of our citizens as a result of their race, color, religious creed, status, sexual orientation, disability or source of income undermines civil order and deprives persons of the benefits of a free and open society. Nothing in this section shall be constructed as supporting or advocating any particular religious view or lifestyle. To the contrary, it is the intention of this section that all persons be treated fairly and equally and it is the expressed intent of this ordinance to bring about the elimination of prejudice, intolerance, bigotry, discrimination and the disorder occasioned thereby.

**§ 10. Public Health Division**

(a) *Division Head.* The director of public health shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director of public health shall:

- (5)administer and manage the tobacco control unit, MMRS/bio unit, the public health nursing, tobacco and burial permit units, including such educational, behavioral, prevention and tracking programs and activities related to any of these functions of as may be developed by the division under the general superintendence of the commissioner of public health;
- (6)keep the commissioner of public health informed of the activities of the division and the information gathered by the division concerning public health issues;
- (7)administer the affairs of the board of health and serve as the keeper of its records, minutes and other papers; and,
- (8)perform the duties and responsibilities described in section 5(b)(1-10) above.

**§11. Transitional Housing Services Division**

(a) *Division Head.* The director of transitional housing services shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director shall:

- (9) develop, maintain and implement plans for the relocation of individuals and families displaced from their housing due to code or housing enforcement or other actions of the city;
- (10) assist the Commission on Homelessness in the implementation, monitoring and updating of the Three Year Plan to End Homelessness in Worcester as originally developed by the city manager's task force on homelessness and presented to the city council on December 3, 2007;
- (11) conduct periodic reviews of the needs of homeless individuals and families;
- (12) assist the Commission on Homelessness in the development of performance measurements and benchmarking criteria to quantify the impact of homelessness programs;
- (13) assist the Commission on Homelessness in the development of recommendations to the city manager on legislative initiatives consistent with the Three Year Plan to End Homelessness in Worcester;
- (14) identify and coordinate the provision of multiple government-based services and programs to local youth and collaborate and coordinate with existing non-governmental organizations and agencies, the business community and service providers involving homelessness programs and services;
- (15) administer and keep the records of the Commission on Homelessness; and,
- (16) perform the duties and responsibilities described in section 5(b)(1-10) above.

## **§ 12. Veterans' Services Division**

(a) *Division Head.* The director of veterans' services shall head the division and shall have the assistance of such other personnel as shall be assigned by the commissioner.

(b) *Duties & Responsibilities.* The director shall:

- (8) administer and manage the programs and activities of the division under the general superintendence of the commissioner;
- (9) perform all duties prescribed by chapter one-hundred fifteen of the General Laws;
- (10) administer the disbursement of veterans' benefits;
- (11) provide services to veterans, members of the armed forces, their families and their dependents;
- (12) provide information and advice to veterans as may be necessary to enable them to procure the benefits to which they are entitled;

- (13) maintain close cooperation with state and federal agencies established for the aid of veterans; and,
- (14) perform the duties and responsibilities described in section 5(b)(1-10) above.

**§ 13. Board of Health**

(a) *Establishment.* Under authority of Articles Six and Ten of the Home Rule Charter and the provisions of chapter one hundred eighty-one of the acts of nineteen hundred and fifty-three, as amended by chapter seven hundred ninety-seven of the acts of nineteen hundred seventy, there is hereby established within the office a board of the city to be known as the "Board of Health" ("board of health" or "board").

(b) *Membership.* The board shall consist of four members appointed by the city manager for staggered terms of three years each. One member shall have received the degree of doctor of medicine from a medical school classified by the American Medical Association as a Grade A school and another member shall have received a degree in dentistry from a dental school classified by the American Medical or Dental Association as a grade A school.

(c) *Duties & Responsibilities of the Board of Health.* The board shall assist and act with the commissioner as provided in chapter 181 of the acts of 1953, as amended by chapter 797 of the acts of 1970.

(d) *Commissioner of Public Health.* There shall be contained in the table of authorized positions for the office a commissioner of public health who shall be appointed by, and serve at the pleasure of, the city manager for a three year term in accordance with the qualifications and requirements of chapter 181 of the acts of 1953, as amended. The commissioner of public health shall serve, *ex officio*, as the chair of the board of health but shall not be a member of the board and shall have no vote unless the board be equally divided.

(e) *Duties & Responsibilities of the Commissioner of Public Health.* The commissioner shall possess and exercise the power and duty to:

- (6) preserve, promote and protect the physical and mental health of the inhabitants of the city by developing and revising a public health program of the city and providing advice to the city manager on public health issues;
- (7) perform all duties and exercise all the powers vested in a commissioner of public health or a board of health by chapter one hundred eleven of the General Laws, or any other general or special law;
- (8) provide programmatic supervision over the activities of the public health division established under this article;
- (9) promulgate guidelines and regulations concerning the medical activities of the division of public health division established under this article; and,
- (10) perform such other duties as assigned by the city manager or as may be prescribed by law.

**§14. Disability Commission**

(a) *Establishment of Commission on Disability.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an advisory board of the city to be known as the "Worcester Commission on Disability" ("commission").

(b) *Membership.* The commission shall consist of seven members appointed by the city manager for three-year terms. The terms shall be staggered such that no fewer than two terms shall expire on May thirty-first of each year. A majority of said commission members shall consist of people with disabilities, one member may be a member of the immediate family of a person with a disability. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term.

(c) *Associate Members.* The city manager may appoint up to five associates of the commission, a majority of whom shall be persons with disabilities. The terms of associates shall expire on May thirty-first of each year and shall be staggered such that no more than two terms shall expire in any given year. Associates shall not be deemed members of the commission; however, whenever any member of the commission is absent from any meeting of the commission, associates shall, upon designation by the chairperson and by order of their appointment, fill such vacancies and shall have authority to participate and vote during such meeting. In making any such designation, the chairperson shall identify the member of the commission in whose stead the associate shall act. Should any absent member arrive at a meeting after an associate has been designated to act in his or her stead, the authority of the associate to act shall cease and the member shall take his or her place with the commission.

(d) *Duties & Responsibilities of the Commission.* The commission shall:

- (13) choose annually from among its regular members a chairperson, vice-chairperson and secretary, provided that it may designate the director of the commission on disability as its secretary;
- (14) research local problems of people with disabilities;
- (15) coordinate the activities of other local groups or individuals organized or committed to meet the needs of people with disabilities;
- (16) carry out programs designed to meet the problems of people with disabilities in coordination with programs of the Massachusetts Office on Disability;
- (17) review and make recommendations about policies, procedures, services and activities of city departments and agencies as they affect people with disabilities;
- (18) work in cooperation with city departments and agencies to bring about full and equal participation by people with disabilities;
- (19) advise and assist city officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities;
- (20) influence city policies and coordinate with programs of the Massachusetts Office on Disability;
- (21) encourage public awareness of disability issues;

- (22) provide information, referrals, guidance and technical assistance to individuals, public agencies, businesses and organizations in all matters pertaining to disability;
- (23) recruit and recommend prospective commission members to the city manager; and,
- (24) submit an annual report to the city manager stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the status of persons with disabilities in Worcester.

(e) *Commission to Act Only By Majority Vote.* All actions of the commission shall be taken by majority vote of the commission members present and shall be recorded in the minutes of its meetings. No member of the commission shall claim or assert any regulatory or enforcement authority by virtue of membership on the commission. In no event shall any member of the commission claim to be acting on behalf of the commission unless such action was authorized in advance by vote of the commission.

(f) *Commission Attendance Required.* Any member who fails to attend any three consecutive meetings of the commission shall be deemed to have abandoned his or her membership on the commission. The commission may then recommend to the city manager that such position be declared vacant and request that a replacement be appointed and, if the city manager concurs with that recommendation, he shall then notify the member of his or her removal and proceed to fill the vacancy.

(g) *Powers & Duties of the Chair.* The chairperson of the commission shall have the following powers, duties and responsibilities:

- (4) establish the time, place and agenda for commission meetings in coordination with other commission members;
- (5) preside over meetings of the commission; and,
- (6) establish sub-committees of the commission and appoint members of the commission thereto.

(h) *Powers & Duties of the Vice-Chair.* The vice chairperson of the commission shall exercise the powers, duties and responsibilities of the chairperson in the event of the absence of the chairperson at any commission meeting or function or in the event of a vacancy in that position.

(i) *Duties of the Secretary of the Commission.* The secretary of the commission, either personally or through the commission on disability director, shall:

- (5) prepare and maintain minutes of all meetings of the commission and any of its sub-committees, which minutes shall include the date, time, place, members present or absent and the actions taken;
- (6) ensure that notice of all meetings is posted with the city clerk at least forty-eight hours before each meeting of the commission or any of its sub-committees;
- (7) maintain a file including all the correspondence and other papers received or generated by the commission or any of its sub-committees; and,

(8) issue certified copies of any commission records or papers as required by law.

(j) *Acceptance of Grants.* The commission, with the approval of the city manager and a vote of the city council as provided in G.L. c. 44 § 53A, may accept in the name of the city of Worcester grants or gifts of funds from the federal government, a charitable foundation, a private corporation, an individual, or from the commonwealth or any city, town or county thereof. All grants or gifts shall be deposited in the city treasury and may be expended without further appropriation by the commission through contracts signed by the chairperson of the commission and the city manager as required by article 5-7 of the city charter or, if the amount is less than two thousand dollars, in accordance with the regulations issued or adopted by the city manager.

#### **§ 15. Early Scholarship Committee**

(a) *Establishment of Early Scholarship Committee.* Pursuant to chapter 194 of the Acts of 1986, as amended by chapter 712 of the Acts of 1987, which added section three C of chapter sixty of the General Laws of Massachusetts, as accepted by the city by vote of the city council on January 13, 1987, and under authority of Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager a scholarship committee of the city to be known as the "Early Scholarship Committee" ("committee").

(b) *Membership.* The committee shall consist of five residents of the city, one from each election district, appointed by the city manager for terms of three years. The terms shall be staggered such that two terms shall expire each July thirty-first for two consecutive years and one term shall expire on July thirty-first of the next year. The superintendent of schools of the city, or his or her designee, shall also serve on the committee as an ex-officio member.

(c) *Duties & Responsibilities.* The committee shall serve in the memory of former Mayor and City Councilor Thomas J. Early, select the recipients of the amount of financial aid from the scholarship fund created by section three C of chapter sixty of the General Laws and perform such other functions, including the selection of scholarship recipients from other sources of funds, as may be designated by the city manager.

(d) *Selection Criteria.* The committee may adopt any criteria to assist in the selection of recipients, subject to any relevant ordinance and further subject to the following criteria:

- (1) the recipients of financial aid must be residents of the city at the time the financial aid is first awarded and have been accepted to pursue education beyond the secondary school level at an institute deemed accredited by the committee; and,
- (2) the committee shall take into consideration each recipients' financial need, character, scholastic record and involvement in community work as well as extracurricular school activities.

(e) *Distribution of Aid.* The committee may distribute financial aid from both interest and principal of the fund, without further appropriation. The committee shall establish a procedure for determining at least on an annual basis the amounts or percentage of the funds that shall be authorized for distribution and for notifying the city treasurer or other investing officer or agency so that the funds may be made available in a timely manner and with a minimum of penalties.

**§ 16. Elder Affairs Commission**

(a) *Establishment of Commission on Elder Affairs.* Under authority of the General Laws, chapter forty, section eight B, and Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Commission on Elder Affairs" ("commission").

(b) *Membership on the Commission on Elder Affairs.* The commission shall consist of fifteen members appointed by the city manager for terms of three years. The terms shall be staggered such that five terms shall expire on October thirty-first of each year.

(c) *Membership on the Senior Center Committee.* The city manager shall designate five members of the commission to serve as a standing committee of the commission and known as the "senior center committee".

(d) *Appointment of Chairs.* The city manager may, from time to time, designate one member of the commission as the chair of the commission and one member of the senior center committee of the commission as the chair of the senior center committee.

(e) *Duties & Responsibilities of the Commission on Elder Affairs.* The commission shall:

- (5) have general superintendence of the senior center;
- (6) make and enforce such rules and regulations as may be necessary or desirable for the efficient operation of the senior center; provided, that no such rule or regulation shall be voted upon by the commission unless it has first received a recommendation of the senior center committee as to the advisability of any rule or regulation;
- (7) establish standing or ad hoc committees for the conduct of its affairs; and,
- (8) may adopt rules of procedure for the operation of the commission and any committees so formed.

(f) *Duties & Responsibilities of the Senior Center Committee.* The senior center committee shall:

- (3) address all matters concerning the management and operation of the senior center; and,
- (4) make reports and recommendations to the commission on all items it considers. No recommendation of the senior center committee shall be deemed adopted unless and until it is approved by majority vote of the commission.

**§17. Homelessness Commission**

(a) *Establishment of Commission on Homelessness.* Under authority of Article Six of the Home Rule Charter, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Commission on Homelessness" ("commission").

(b) *Membership.* The commission shall consist of nine members appointed by the city manager for a term of three years provided, however, that, the terms shall staggered such that no more than three terms expire in any one year. The city manager shall designate from the membership of the committee a chair and vice-chair. The members of the committee shall consist of one member from among those nominated by the following agencies and entities:

- (9) Worcester Housing Authority;
- (10) Worcester Public Schools;
- (11) A provider of shelter;
- (12) A health care provider.;
- (13) A workforce development agency;
- (14) A neighborhood crime watch or neighborhood-based organization;
- (15) A business entity operating within the city;  
and,
- (16) Two members not otherwise affiliated and maintaining their primary residence in the city;

(c) The city manager shall establish open, fair and equitable procedures for soliciting nominees from the various entities and agencies listed and shall publish such procedures for an appropriate time prior to soliciting nominees for appointment to the commission.

(d) The city manager shall annually select one of its members as its chair. The chair shall preside over the meetings of the commission. The commission shall represent a broad spectrum of the Worcester community. Any vacancy, however created, other than by expiration of a term, shall be filled by appointment by the city manager for the unexpired portion of the term.

(e) *Duties & Responsibilities of Commission.* The commission shall possess and exercise the power and duty to:

- (6) implement, monitor and update the *Three Year Plan to End Homelessness in Worcester* as originally developed by the city manager's task force on homelessness and presented to the city council on December 3, 2007;
- (7) conduct periodic reviews of the needs of homeless individuals and families;
- (8) make recommendations to the city manager for city budgetary expenditures to end homelessness;
- (9) advocate to meet the needs of the homeless; and,
- (10) make reports to the city manager on the progress of the implementation of the Three Year Plan to End Homelessness in Worcester.

#### **§18. Human Rights Commission**

(a) *Establishment of Human Rights Commission.* Under authority of Article Six of the Home Rule Charter and to promote the human rights policy of the city, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the "Human Rights Commission" ("commission").

(b) *Membership.* The commission shall consist of nine members appointed by the city manager for a term of three years provided, however, that, the terms shall staggered such that no more than three terms expire in any one year. The commission shall annually select one of its members as its chair. The chair shall preside over the meetings of the commission. The commission shall represent a broad spectrum of the Worcester community. Any vacancy, however created, other than by expiration of a term, shall be filled by appointment by the city manager for the unexpired portion of the term.

(c) *Duties & Responsibilities of Commission.* The commission shall possess and exercise the power and duty to:

(13) conduct investigations: to receive and investigate complaints of and to initiate its own complaints and/or investigations of:

(A)(A)the denial of equal access to and discrimination in employment, housing, education, recreation and public accommodation (regardless of the public or private source of such denial or discrimination) where such denial or discrimination against a person is based on race, color, religious creed, national origin, gender, age, ancestry, marital status, parental status, sexual orientation, disability or source of income;

(B)the denial to any person of equal access to and benefit from all public services;

(C)the violation of the enjoyment and exercise by any person of his or her civil rights; and,

(D)the presence in the city of prejudice, intolerance, bigotry, discrimination and the disorder occasioned thereby;

*provided, however, that the executive director, with notice to the commission, shall refer any allegation involving the conduct of the any city employee, including the city manager, city clerk, city auditor or the superintendent of schools, to the Massachusetts Commission Against Discrimination or other appropriate state or federal agency and shall in no event initiate or otherwise conduct any investigation or inquiry regarding these officials or employees.*

(14) hold hearings: to take testimony, administer oaths, and conduct hearings and adjudicatory proceedings in accordance with sections 9, 10 and 11 of G.L. c.30A on any matter within its jurisdiction and, with the assistance and advice of the city solicitor, subpoena witnesses, seek court orders to compel the attendance of witnesses or the production of documents or other evidence;

(15) conduct mediation: to attempt, by mediation, to resolve any complaint over which it has jurisdiction and to recommend to the city manager or other appropriate governmental agency, federal, state or local, such action as it deems appropriate. In the conduct of any such mediation the commission may utilize not only the members and staff of the commission but such

organizations as the Worcester County Bar Association, the National Association for Dispute Settlement of the American Arbitration Association and any other similar organizations;

(16) issue orders and reports: after completion of any investigation or hearings on any complaint or matter not resolved by mediation, the commission may:

(C) upon a finding of an "unlawful practice", as that term is defined under section 4 of G.L. c.151B, issue cease and desist orders to the party believed to be responsible for such unlawful practice; provided, however, that in no event shall the commission issue any cease and desist orders to the city, its departments and agencies, or its employees insofar as the city employee is or was acting within the scope of his or her employment.

(D) make a written report of its recommendations and findings to:

- (i) the city manager on any matter within the manager's jurisdiction for review and implementation (including the taking of disciplinary or administrative action) as the city manager deems justified; or,
- (ii) the school committee or superintendent of schools on any matter within their jurisdiction; or
- (iii) the city council for employees under its jurisdiction; or the Massachusetts Commission Against Discrimination (MCAD) on any matter within its jurisdiction;
- (iv) other governmental agency having jurisdiction over the matter in question,

and, in all cases, urging and using its best efforts to bring about compliance with its recommendation; or

(C) assist in securing legal representation for complainants for who, in the opinion of the commission, are indigent or facing undue financial hardship and arrange for legal representation for any complainant who, in the opinion of the commission, has a justifiable complaint which involves a matter outside of the jurisdiction of either the city manager, city council, superintendent of schools or school committee, yet one which is within the jurisdiction of the commission but must be processed by the complainant before the MCAD or some other state or federal governmental agency (or court), provided, however, that the commission shall attempt to secure such representation only for those complainants for whom undue hardship, in the opinion of the commission, would otherwise result;

(17) review departmental policies: to review the existing policies, rules and regulations of any city department, board, commission or agency and provide its comments, conclusions and recommendations in writing to the city manager and the head or executive officer of any such city department, board, commission or agency, to the extent the foregoing regulations relate to the human rights ordinance of the city;

- (18) review departmental disciplinary actions: to review the results of any internal disciplinary action taken by any department, board, commission or agency of the city, including reports of the internal affairs division of the police department, and to make comments, conclusions and recommendations jointly to the city manager and the head or executive officer of any such department or agency to the extent such internal disciplinary investigations relate to the human rights ordinance of the city. Upon the request of the director, the head or executive officer of any department or agency of the city shall forward to the director a copy of any internal disciplinary action report at such time and only to the extent such report becomes a public record under the laws of the commonwealth. The head or executive officer of any city department or agency shall also furnish, subject to the provisions of this ordinance and with the advice and consent of the city solicitor, any other such records and information that the director may request relative to any internal disciplinary action. The director shall furnish the commission with copies of any internal disciplinary action report so received and may disclose to the commission, in an appropriate manner or setting as permitted or required by law, any other records and information received pursuant to this subsection. Any individual employed by the city, including members of the commission, the director or other staff, whether compensated or volunteers, who discloses any records or information of a personal nature or otherwise not subject to mandatory release under the public records law of the commonwealth, to any person, except as provided for herein, may be subjected to employee discipline by the appropriate city official or removed from the commission by the city manager, as the case may be;
- (19) issue publications: to issue such publications and such results of investigations and research as, in its judgment, will tend to promote good will and minimize or eliminate discrimination because of race, color, religious creed, national origin, sex, age or ancestry, marital status, parental status, sexual orientation, disability or source of income;
- (20) develop training programs: to develop, in cooperation with the executive offices of human resources and employment and training as well as any federal, state or other city agency or department, programs of instruction for city employees, other municipal employees, or private sector businesses, institutions or employees concerning the elimination of prejudice, intolerance, bigotry and discrimination and the value of mutual self-respect and the achievement of harmonious relationships among all individuals;
- (21) create committees: to create such committees from the members of the commission as, in the commission's judgment, will best aid in effectuating the provisions of this ordinance and to empower such sub-committees to study the problems of prejudice, intolerance, bigotry and discrimination existing in the city due to denial of equal treatment as a result of race, color, religious creed, national origin, gender, age, ancestry, marital status, parental status, sexual orientation, disability or source of income;

- (22) make recommendations and annual reports: to make such recommendations to any public official or public body as, in its judgment, will effectuate the policy of this ordinance and, annually, to make a written report to the city manager of its activities. The commission's annual report to the city manager shall be made available to the public;
- (23) make rules and regulations: to adopt rules and regulations consistent with this ordinance and the laws of the commonwealth to carry out the policy and provisions of this ordinance and the powers and duties of the commission in connection therewith; and to perform such other duties as may be prescribed under law;
- (24) In no event shall the commission file, or in any way be a party to any criminal actions or complaints in any court of law. In all civil matters the commission shall be represented solely by the city solicitor.

(d) *Contributions.* The commission may, with the approval of the city manager and city council, on behalf of the city, accept contributions, grants and appropriations from other governmental agencies and from civic and charitable foundations, trusts and other organizations, private or public, to effectuate the provisions of this section.

(e) *Relations with City Agencies.* Subject to the provisions of the city charter and the laws of the Commonwealth, the commission shall receive the cooperation and assistance of all city departments and agencies. The commission shall respect the privacy of all individuals. In the event the staff or members of the commission receive any documents or information of a confidential nature, or which would be exempt from disclosure under the public records law or which pertains to a subject eligible for discussion in executive session, neither the staff nor members of the commission shall release or divulge such documents or information to parties outside of the commission, its staff, the law department or any other appropriate city official. Unless otherwise provided, herein, all city departments and agencies shall respond to commission requests for administrative and legal services within ten working days of the date of receipt of any such request.

(f) *Definitions.* For purposes of this section the following definitions shall apply:

"age" refers to the actual or supposed chronological age of an individual eighteen years or older and shall relate to claims of denial of equal treatment due to age. This shall not limit the rights of persons under age eighteen to file a complaint for other than age discrimination (e.g. race discrimination, etc.) if accompanied by a guardian, where necessary.

"disability" refers to any actual or supposed physical or mental handicap of an individual, other than legal incompetency.

"internal disciplinary investigation" refers to any inquiry by the city manager or head of any city department or agency to determine whether the conduct of city employees complies with the ordinances, orders, policies and procedures of the city and, if not, what disciplinary measures are appropriate, insofar as such conduct involves allegations of the impairment or violation of the civil or human rights of any individual.

"marital status" refers to the actual or supposed state of being or having been unmarried, married, separated, divorced or widowed.

"parental status" refers to the actual or supposed condition of having or not having children.

"person" includes, but is not limited to, one or more individuals, partnerships, associations, corporations, agencies, legal representatives, trustees, trustees in bankruptcy and receivers, the city and all political subdivisions, boards and commissions.

"sexual orientation" refers to actual or supposed homosexuality, heterosexuality or bisexuality or orientation or practice including, but not limited to, an orientation that may be presumed on the basis of mannerisms, physical characteristics, manner of dress or deportment.

"source of income" refers to the actual or supposed manner or means by which an individual supports himself or herself and his or her dependents excluding the use of criminal activities as a means of support.

(g) *Construction.* The provisions of this section shall be construed liberally for the accomplishment of the purposes hereof. Nothing herein shall be construed to limit civil rights granted or hereinafter afforded by federal and state law.

(h) *Effect of State and Federal Law.* Nothing in this section shall be deemed to exempt or relieve any person from any liability, duty, penalty or punishment provided by any present or future law of the commonwealth of Massachusetts or the United States, other than any such law which purports to require or permit the doing of any act which would be unlawful under this section.

## **§ 19. Board of Library Directors**

(a) *Establishment.* To carry-out the terms of the deed of gift of Dr. John Green to the city of Worcester, dated December 27, 1859, and the last will and testament of Dr. John Green, and subject to the provisions of the General Laws chapter seventy-eight, section seven, there is hereby established under authority of Article Six of the Home Rule Charter within the department a division of the city to be known as the "Free Public Library" ("public library").

(b) *Division Head.* The board of library directors ("board") as so established shall head the division, which shall consist of the board, the head librarian and such other personnel as the city council, with the advice of the city manager, shall, from time to time, authorize in the budget.

(c) *Membership.* The board shall consist of twelve members who shall be appointed by the city council for terms of six years. The city council shall choose in the month of December two directors to fill the vacancies occurring on the first day of January next ensuing, which directors shall hold their office for the term of six years from the first day of January. All vacancies in the board, occasioned by death, resignation, removal from the city or otherwise, shall be filled in like manner, as they arise, for the unexpired term thereof, and no person shall be eligible to fill a vacancy arising from the expiration of his term of office.

(d) *Duties & Responsibilities.* It shall be the duty and responsibility of the board:

- (7)manage the Free Public Library;
- (8)have care and custody of the buildings and grounds of the library and any branches thereof;
- (9)have sole custody of the books;
- (10) promulgate any and all needful and suitable regulations concerning the Free Public Library and the use thereof;
- (11) manage all trust funds given or bequeathed for the benefit of the Free Public Library, including such trust funds formerly under the control of the board of commissioners of Trust Funds; and,
- (12) perform such other duties as may be prescribed by law.

(e) *Organization of the Board.* The directors shall meet as soon as may be after the first day of January in each year and organize into a board by the choice of a president and a secretary from their own number. A majority of the board shall be required for the transaction of business.

(f) *Secretary.* The secretary shall have the care and custody of all books, records, papers and documents belonging to the board and shall record all the doings of the board in a book to be furnished by the city, and he shall deliver the books, records, papers and documents to his or her successor in office.

(g) *Head Librarian & Officers.* Except as otherwise provided by law, the board shall appoint the head librarian and all subordinate officers and may remove such officers at pleasure. The head librarian shall be the executive officer of the board and shall perform the duties and responsibilities described in section 5(b)(1-10) above unless any such duty or responsibility shall be incompatible with any authority exercised under the provisions of the deed of gift or last will and testament of Dr. John Green.

## **§ 20. Status of Women Committee**

(a) *Establishment of the Advisory Committee on the Status of Women.* Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager an agency of the city to be known as the "Advisory Committee on the Status of Women" ("committee").

(b) *Membership.* The committee shall consist of fifteen persons appointed by the city manager for three year terms. The terms shall be staggered such that five terms shall expire on August thirty-first of each year. From time to time, the city manager shall designate the chair of the committee.

(c) *Duties & Responsibilities.* It shall be the function of the committee to:

- (4)formulate, encourage, promote and monitor programs and policies relating to the status of women in the city;
- (5)submit annually to the city manager a report stating the undertakings of the committee, its accomplishments, conclusions and recommendations concerning the status of women in Worcester; and,

(6)appoint sub-committees as may be needed to carry out its responsibilities.

## **Article 11. Auditing Department**

- § 1. Establishment
  - § 2. Function
  - § 3. Personnel
  - § 4. Head of Department
  - § 5. Duties & Responsibilities
  - § 6. Bond; City Auditor Pro Tempore
  - § 7. Accounts and Contract Ledgers
  - § 8. Supervision of Accounts
  - § 9. Procedure for Payment of Bills
  - § 10. Appropriations Report - Finance Committee
  - § 11. Audits of Certain Departments
  - § 12. Annual Audit
  - § 13. Annual Report of Indebtedness
  - § 14. Reports of the Housing & Redevelopment Authorities
  - § 15. Return to Assessors
  - § 16. Delivery of Assessments and Accounts
  - § 17. Approval of Purchase Orders
  - § 18. Reports of Payments
- 

### **§ 1. Establishment**

Under authority of Article Two, § 2-8(b) and Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city council a department of the city to be known as the "Auditing Department" ("department").

### **§ 2. Function**

It shall be the function of the department through the city auditor to perform the pre-audit of financial transactions of municipal departments, boards, commissions and committees of the city, including the school department.

### **§ 3. Personnel**

The department shall consist of the city auditor and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

### **§ 4. Head of Department**

The department shall be headed by the city auditor, who shall be elected by the city council for a term of three years; and who shall reside in the city.

### **§ 5. Duties & Responsibilities**

The city auditor shall be responsible for the performance of the functions of the department and shall:

- (17) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (18) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the general policies and requirements of the city manager and chief financial officer;
- (19) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (20) keep and have charge of the accounts of the city;
- (21) audit from time to time the books and accounts of all agencies of the city;
- (22) perform such other duties as may be prescribed by law;
- (23) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (24) keep the city council informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the finances of the city;
- (25) seek the advice of the city council prior to changing any existing policy or initiating any new program or service;
- (26) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city council;
- (27) perform such other tasks and functions as may be requested by the city council;
- (28) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (29) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;

- (30) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city council;
- (31) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city council; and,
- (32) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city council.

#### **§ 6. Bond; City Auditor Pro Tempore**

The city auditor shall give a bond with surety or sureties to be approved by the city council, in the sum of five thousand dollars, for the faithful performance of his or her duties, and the delivery to his or her successor or to the city clerk, of all books papers, documents and property belonging to the office. Whenever the office of the city auditor shall be vacant or whenever he or she may, from any cause, be unable to perform the duties of the office, the city council may elect a city auditor pro tempore, to hold office, unless sooner removed by the city council, until the vacancy shall be filled by the city council, or the disability shall cease, as the case may be; provided, that such city auditor pro tempore, shall have all the powers and be subject to all the liabilities which pertain to the office.

#### **§ 7. Accounts and Contract Ledgers**

(a) The city auditor shall keep his accounts in the form now in use until otherwise ordered by the city council, and by such divisions and such details as may be necessary to show a clear exhibit of the expenses incurred by each of the several departments of the government, in their various operations, stating, among other things, the appropriation for each department, and for each distinct object or expenditure; and whenever the appropriations for any department or for any objects have been exhausted, he shall immediately communicate the fact to the city manager and the city council, and all expenditures therefor shall cease until a further appropriation is duly made. The city auditor, when requested, shall furnish to the chair of the board, or head of the department having work in charge, the amount of the appropriation therefor, and the amount drawn in gross or in detail.

(b) In addition to the system now in operation in the auditing department, the city auditor, under the direction of the city council, shall maintain appropriation and contract ledgers on which daily entries of expenses incurred and encumbrances assumed shall be made and from which daily unexpended balances and unencumbered balances may be obtained.

#### **§ 8. Supervision of Accounts**

The city auditor, under the direction of the city council, shall have general supervision of the accounts kept by the several city departments and shall require the several departments to keep such accounts as may be necessary in such form as he or she shall prescribe.

## **§ 9. Procedure for Payment of Bills**

The city auditor shall receive all bills and accounts from persons having demands against the city, examine them in detail, and have them filed and entered in books in such manner and form as the city council may direct. All doubtful bills and accounts so received shall be presented by the city auditor to the city manager before being entered in such books. Before money is paid out of the city treasury, a requisition therefor, in writing, with detailed accounts attached, specifying the amount to be paid, and the party or parties to whom the payment is due, shall be made by the board or head of the department incurring the expenditure, upon the city auditor. He shall receive all such requisitions, accounts and claims rendered against the city, and carefully examine the same, and shall see that they are correctly cast and approved. In case of any error or informality, he shall make note of the fact, and return the bill or demand with the objections to the officer, board or person presenting the same. When invoices for services rendered or supplies furnished shall have been recorded by the city auditor, the draft or order upon the city treasurer for the payment of the aggregate amount of the bills aforesaid shall be signed by the city manager, and countersigned by the city auditor. The city auditor shall give a certificate for all bills approved as aforesaid to the city treasurer, which certificate shall specify the name of the person or persons authorized to receive the amount due, together with amount duly approved and payable to the person. Such certificate shall be signed by the city auditor, and upon presentation shall be paid by the city treasurer.

## **§ 10. Appropriations Report - Finance Committee**

The auditor shall make an exhibit of the state of the appropriations monthly to the city council; shall render such other services as the city council may direct; and, shall attend all meetings of the city council finance committee.

## **§ 11. Audits of Certain Departments**

The city auditor shall cause to be made a post audit of any or all city departments, if an appropriation is made therefor. This audit shall be made by a certified public accountant, licensed under the General Laws, recommended by the city auditor and approved by the city council.

## **§ 12. Annual Audit**

The auditor shall obtain an annual independent audit of the accounts of the city in accordance with the requirements of the director of accounts of the department of revenue acting pursuant to G.L. c.44, §§ 40 & 42.

## **§ 13. Annual Report of Indebtedness**

All heads of departments and all other officers and boards, including boards of trustees and boards of directors having authority to expend money, shall report annually in writing to the city auditor, not later than the 15th day of July, whether or not they, in their official capacity, or their respective departments or boards, owed any debt at the end of the financial year ending the 30th day June preceding, which was incurred that year and if any, the amount thereof. The city auditor shall, thereupon, furnish each

member of the city council at its first meeting next following the 15th day of August, a written statement of the amount of such indebtedness of each department, officer or board in excess of their respective unexpended appropriations for the same year, including also mention of those departments, officers or boards having no such indebtedness.

#### **§ 14. Report of the Housing and Redevelopment Authorities**

(a) If requested by the city council, on or before the 30th day of December in each year, the city auditor shall submit a report to the city council, as of the last day of the preceding financial year, covering all financial transactions and agreements that the city has had with the Worcester Housing Authority and the Worcester Redevelopment Authority. This report shall be segregated by fiscal year and shall be further segregated as to each project. The report shall include a statement of all capital outlays by the city, and shall be further segregated as to land gifts, expenditures for making streets public, expenditures for constructing sewers and water connections and any other capital expenditures by the city.

(b) The report shall also include a statement of all monies which the Worcester Housing Authority and Worcester Redevelopment Authority paid over to the city from projects, the sources from which that money was derived, the reason for such payment and the application which the city made of such receipts.

(c) The report shall contain a statement of all monies borrowed by the city for the financing of such projects and the amounts matured and outstanding, together with interest paid and accrued on such borrowings.

#### **§ 15. Return to Assessors**

It shall be the duty of the city auditor, upon request of the assessors and before the tax rate is set in each year, to make a return to the assessors of all sums appropriated, granted or lawfully expended by the city since the last preceding annual assessment and not provided for therein, and all sums necessary to satisfy final judgments recovered against the city, specifying the sums for the payment of which the city shall have voted to contract debts under the laws relating to municipal indebtedness; also the amount of temporary loans expressly made payable from the taxes of the current year by vote of the city council, and incurred in anticipation thereof; also all sums required for the payment of interest upon the debt of the city.

#### **§ 16. Delivery of Assessments and Accounts**

It shall be the duty of the several departments and officers of the city to cause to be delivered to the city auditor, who shall take account of and deliver the same to the collector of taxes for collection, all special taxes, assessments and accounts against persons indebted to the city, and no other department or officer of the city, except the collector of taxes, shall receive payment of any such account, except when specially authorized to receive the same.

#### **§ 17. Approval of Purchase Orders**

The several officers of the city and departments to which appropriations are voted by the city council shall present to the city auditor before liability is incurred all orders for services, materials and supplies or any other expenditures or obligation for any of the several departments for his approval as to sufficient funds in the accounts affected to warrant the expenditure of the amount stated in the order. To meet this requirement, a standard system shall be installed in the various departments, subject to the approval of the city auditor, and under the supervision of the city council.

#### **§ 18. Reports of Payments**

All officers authorized to receive money in behalf of the city shall, as often as once in each month, pay over the same to the city treasurer and collector of taxes, reporting at the time of payment the amount thereof to the city auditor, and the city auditor shall audit the accounts of all such officers at the close of each municipal year, and at the expiration of their respective terms of office, or at any other time when ordered by the city council, and for this purpose the auditor shall have access to all books and vouchers in the possession of any officer or committee of the city, and he shall in every case when so ordered, report to the city council the result of his examination.

## **Article 12. City Clerk Department**

- § 1. Establishment
  - § 2. Function
  - § 3. Authorized Positions
  - § 4. Head of Department
  - § 5. Organization of the Department
  - § 6. Duties & Responsibilities
  - § 7. Assistant City Clerks
  - § 8. City Council Meetings
  - § 9. Committee Meetings
  - §10. Administration of Elections
- 

### **§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city council a department of the city to be known as the "City Clerk Department" ("department").

### **§ 2. Function**

It shall be the function of the department to be the official custodian of the city's records, papers and documents, to serve as the clerk of the city council and its committees, to carry out those duties and responsibilities required by law and to provide administrative and operational support to the board of election commissioners.

### **§ 3. Authorized Positions**

The department shall consist of the city clerk and such other positions as the city council, with the advice of the city manager, shall authorize by adoption of the table of authorized positions in the annual city budget, as the same may be amended from time to time.

### **§ 4. Head of Department**

The department shall be headed by the city clerk, who shall be appointed by the city council.

### **§ 5. Organization of the Office**

(a) *Establishment of Divisions.* The office shall be organized into two divisions for the following purposes:

*City Clerk Division* - to carry out those duties and responsibilities required by law of city and town clerks, to serve as the clerk of the city council and to be the official custodian of the city's records, papers and documents; and;

*Election Commission Division* - to provide administrative and operational support to the board of election commissioners established under article seven of the home rule charter.

## **§ 6. Duties & Responsibilities**

The city clerk shall be responsible for the performance of the functions of the department and shall:

- (19) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (20) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the general policies and requirements of the city manager and chief financial officer;
- (21) administer the award and implementation of contracts concerning matters under the responsibility of the department and payable from funds appropriated to the department;
- (22) keep to furnish the collector of taxes with an account of any and all assessments made by the city council relating to streets, sidewalks, sewers and otherwise, as soon as may be after such assessments are made;
- (23) perform such other duties as the city council may from time to time require;
- (24) annually report in detail in writing, to the city council all monies received as fees or otherwise during the preceding financial year;
- (25) furnish the justices of the Central District Court, the clerk of the superior court for the county of Worcester, the clerk of the Central District Court, the Free Public Library, the Worcester County Library and the chief of police, with attested copies of all ordinances passed by the city council;
- (26) keep books in which shall be alphabetically arranged the names of all the streets, highways and sidewalks which now are or may hereafter be accepted or laid out, with the date of such laying out or acceptance, and the width thereof, and all alterations therein from time to time made by the city council;
- (27) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (28) keep the city council informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the finances of the city;

- (29) seek the advice of the city council prior to changing any existing policy or initiating any new program or service;
- (30) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city council;
- (31) perform such other tasks and functions as may be prescribed by law or as may be requested by the city council;
- (32) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (33) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (34) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city council;
- (35) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city council; and,
- (36) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city council.

#### **§ 6. Assistant City Clerks**

(a) The city council shall appoint two assistant city clerks on the recommendation of the city clerk.

(b) In addition to having such powers and performing such duties as may from time to time be prescribed for them by the city clerk, it shall be the duty of the assistant city clerks to assist the city clerk in recording, indexing and certifying mortgages of personal property, assignments of wages and other documents required by law to be recorded, and also to attest documents and perform all other duties pertaining to the office of city clerk when thereto requested by him or when the office of city clerk shall be vacant from any cause.

#### **§ 7. City Council Meetings**

The city clerk or an assistant city clerk shall attend all meetings of the city council. The city clerk shall prepare a calendar of the agenda for each meeting and keep the official records of all such meetings.

## **§ 8. Committee Meetings**

The city clerk shall notify the members of the council committees of the meetings thereof and, when requested by the chair of any committee, shall perform such other duties as the committee may require. The city clerk or an assistant city clerk shall attend each meeting of the several committees of the city council and shall make a proper record of all the proceedings and the transaction of the business of each meeting.

## **§ 9. Administration of Elections**

(a) In addition to exercising the duties and responsibilities of city clerk, the city clerk shall also serve as the executive director of the board of election commissioners and in that capacity shall:

- (5) provide administrative and operational support to the board of election commissioners established under article seven of the home rule charter;
- (6) perform such duties and responsibilities as may be required or requested by the board of election commissioners in the performance of their duties under article seven of the home rule charter, or as provided under section sixteen A of chapter fifty-one of the General Laws, or as otherwise prescribed to said board by any federal, general or special law;
- (7) coordinate the services authorized by the city manager of other city departments for the conduct of any election; and,
- (8) administer and keep the records of the board of election commissioners.

(b) The city clerk may assign such personnel within the city clerk department to work in the preparation and administration of elections as he or she deems necessary or advisable to properly perform the duties and responsibilities described in subsection (a) above.

**Article 13. Law Department**

- § 1. Establishment
  - § 2. Function
  - § 3. Personnel
  - § 4. Head of Department
  - § 5. Duties & Responsibilities
  - § 6. Assistant City Solicitors
  - § 7. Claims Committee
  - § 8. Legal Assistants
- 

**§ 1. Establishment**

Under authority of Article Six of the Home Rule Charter there is hereby established under the jurisdiction of the city manager a department of the city to be known as the "Law Department" ("department").

**§ 2. Function**

It shall be the function of the department to furnish the legal services and advice to all agencies and officers and employees of the city as may be lawfully requested or required.

**§ 3. Personnel**

The department shall consist of a city solicitor and such other personnel as the city council, with the advice of the city manager, shall from time to time authorize.

**§ 4. Head of Department**

The department shall be headed by the city solicitor, who shall be the chief legal officer of the city, and who shall be appointed by and shall serve at the pleasure of the city manager. The city solicitor shall be a member of the bar of the commonwealth.

**§ 5. Duties & Responsibilities**

The city solicitor shall be responsible for the performance of the functions of the department and shall:

- (23) have management responsibility and general superintendence over the functions, programs, services, operations, activities and facilities of the department;
- (24) manage the budget for the department, which shall include all items of revenue and ordinary maintenance, salary and capital expenditures, in accordance with the policies and requirements of the city manager, chief financial officer or the city auditor;
- (25) administer the award and implementation of contracts concerning matters under the responsibility of the division and payable from funds appropriated to the division;

- (26) perform provide the legal services, assistance or counsel required by any agency or officer of the city;
- (27) initiate or defend any legal proceeding in which the city is or may be a party or have an interest in and to defend such officers or employees in any proceedings brought against them to which they are or may be entitled to such defense by the city;
- (28) draft the legal instruments of the city;
- (29) review for legal requirements all contracts prior to their execution by the city manager;
- (30) establish such procedures as may be necessary for officers and employees of the city to report and assist in any legal proceedings involving the city or its officers and employees;
- (31) supply city agencies, officers and employees with such forms as may be necessary for the legal conduct of the affairs of the city;
- (32) obtain from the federal government, the General Court, the Attorney General, and from the courts of the Commonwealth, information that may affect the city on proposed or existing laws, interpretations and decisions thereof. To make this information known to the city manager and to the head of any department that may be affected thereby;
- (33) when requested by the city manager, provide legal representation to the Worcester Redevelopment Authority, Worcester Retirement Board, the Upper Blackstone Water Pollution Abatement District and such other entities related to the business of the city of Worcester as the city manager may from time to time further authorize;
- (34) attend all meetings of the city council;
- (35) supervise and direct the personnel in the department by establishing rules, policies and practices governing the operations of the department; assigning tasks and establishing priorities, deadlines and work schedules; approving requests for vacation leave and other time off; training employees in the specialized tasks of the department; evaluating the performance of individual employees in the department, recommending promotions and honors and disciplining personnel at any level including suspensions for no more than five working days;
- (36) keep the city manager informed of the activities and needs of the department and provide the city manager with information developed by the department which would have a material impact on the peace, security and good order of the city;
- (37) seek the advice of the city manager prior to changing any existing policy or initiating any new program or service;
- (38) prepare prompt and thorough responses to requests for reports, memoranda, opinions or other documents or actions as may be requested by the city manager;
- (39) perform such other tasks and functions as may be requested by the city manager, or anyone acting under authority of the city manager;

- (40) ensure that all actions of the department are taken in accordance with all executive orders and administrative directives issued by the city manager, the financial procedures established by the city manager and the city auditor, the provisions of these revised ordinances, the home rule charter, the Constitutions and laws of the commonwealth and the United States of America;
- (41) have care, custody and control of the property, including real property interests, personal property and tangible and intangible property, as has been, or may be, allocated to the department by the city manager and the city council and to cause the same to be kept in good condition and repair and ready for immediate service;
- (42) determine the priorities of the department and prepare long-range strategic plans and objectives consistent with the strategic direction of the city manager;
- (43) prepare, monitor and manage the budget for the department, which shall include ordinary maintenance, salary and capital expenditures, in accordance with the format prescribed and the directives issued by the city manager; and,
- (44) prepare, implement, evaluate and improve department operations, programs and projects in accordance with the goals and objectives established for the department by the city manager.

#### **§ 6. Assistant City Solicitors**

(a) The city manager may appoint, as shall be provided for in the budget, assistant city solicitors to serve at his pleasure. The assistant city solicitors shall be members of the bar of the commonwealth and shall perform such duties as the city solicitor may direct.

(b) The city manager may also appoint special assistant city solicitors for specific legal matters or cases; said special assistant city solicitors shall be subject to the direction and control of the city solicitor and shall be a member of the highest bar of a state or territory of the United States.

#### **§ 7. Claims Committee**

When requested by any claimant whose claim has been denied by the claims agent, the city solicitor may create a claims committee consisting of two or more attorneys in the department to hear claimants, all of whom shall receive proper notice of the time and place of such hearing investigate. The committee shall have authority to make recommendations to the city solicitor on the ultimate disposition of any claim presented to it.

#### **§ 8. Legal Assistants**

The city manager may also appoint, as shall be provided for in the budget, legal assistants, who shall devote full time to their duties and who shall serve at his pleasure. Legal assistants shall be members of the bar of the commonwealth and shall perform such duties as the city solicitor may direct, provided, however, that the city manager may appoint temporary legal assistants who are candidates for admission to the bar of the commonwealth.



**Amendment 9151**

**AN ORDINANCE RELATIVE TO EXPEDITED PERMITTING FOR PRIORITY DEVELOPMENT SITES**

Be it ordained by the City Council of the City of Worcester as follows:

Section 1 Chapter 6, § 4 of the Revised Ordinances of 1996 is hereby amended by deleting paragraph (a) in its entirety and inserting in lieu thereof the following new paragraph (a):

(a) Written application shall be filed with the Commission to perform activities regulated by this ordinance affecting resource areas protected by this ordinance. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this ordinance. For activities occurring on any Priority Development Site designated by the City Council pursuant to G.L. c.43D, the aforesaid application shall be filed at the time of application for a special permit or for site plan review.

Section 2 Chapter 6, § 5 of the Revised Ordinances of 1996 is hereby amended by deleting paragraph (c) in its entirety and inserting in lieu thereof the following new paragraph (c):

(c) The Commission shall commence the public hearing within forty-five (45) days from receipt of a completed application or request for determination, provided, however, that said public hearing shall be commenced within twenty-one (21) days of receipt thereof for activities occurring on any Priority Development Site designated by the City Council pursuant to G.L. c.43D. If the Commission fails to comply with this provision, the project shall be deemed a constructive grant approval under this ordinance by the Commission.

Section 3 Chapter 6, § 5 of the Revised Ordinances of 1996 is hereby amended by deleting paragraph (d) in its entirety and inserting in lieu thereof the following new paragraph (d):

(d) The Commission shall issue its permit or determination in writing within thirty-five (35) days of the close of the public hearing thereon, provided, however, that the public hearing shall normally be closed and a determination and permit, if necessary, shall normally issue no later than 150 days following commencement of said public hearing for activities occurring on any Priority Development Site designated by the City Council pursuant to G.L. c.43D, subject to extension as per 400 CMR 2.09.

Section 4 Chapter 9, § 13 of the Revised Ordinances of 1996 is hereby amended by deleting paragraph (1) in its entirety and inserting in lieu thereof the following new paragraph (1):

(1) The provisions of subsection (c) of this section shall not apply if such building is the subject of an emergency order issued under authority of G.L. c. 143, §§ 6-9, or § 124 of the state building code, or an Executive Order Concerning Demolition Procedures, as issued and revised from time to time by the city manager. The provisions of subsection (c) of this section shall also not apply whenever, in the opinion of the director, the condition of any designated historic building requires immediate emergency action to abate a threat to the health or safety of the public. Nor shall the provision of said subsection (c) apply to the demolition of a designated historic building located on any Priority Development Site designated by the City Council pursuant G.L. c.43D.

Section 5 Chapter 10 of the Revised Ordinances of 1996 is hereby amended by inserting after § 14 thereof a new section, § 15, as follows:

§ 15 Priority Site Development Licenses & Permits

Any license or permit required hereunder in connection with the development of any Priority Development Site designated by the City Council pursuant to G.L. c. 43D shall be applied for and the application fee paid, if any, no later than thirty (30) days following submittal of a special permit or site plan review application. The appropriate authority shall normally take action on said application no later than twenty-one (21) days following the filing of a special permit or site plan approval decision with the City Clerk, subject to extension as per 400 CMR 2.09.

**In City Council April 29, 2008**

**Passed to be ordained by a yea and nay vote of Ten Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk  
David J. Rushford, City Clerk**

**Amendment 9172**

AN ORDINANCE AMENDING CHAPTER SEVEN  
SECTION SIXTEEN OF THE REVISED ORDINANCES OF 1996 RELATIVE TO WATER RATES USE  
CHARGES  
(FY 2009)

Be it ordained by the City Council of the City of Worcester, as follows:

1. Chapter 7, § 16 of the Revised Ordinances of the City of Worcester, as most recently amended, is hereby further amended by deleting in paragraph (c) thereof, the rates for "Basic" and "Outside City Limits" and inserting in lieu thereof the new rates as follows.

Basic . . . . .	\$ 2.84
Outside City Limits . . . . .	\$ 3.40

2. This amendment shall be effective as of July 1, 2008 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter 7 of the Revised Ordinances of 1996.

**In City Council June 24, 2008**  
**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
***David J. Rushford***  
**City Clerk**

**Amendment 9173**

AN ORDINANCE AMENDING CHAPTER FIVE  
SECTION TWENTY-SIX OF THE REVISED ORDINANCES OF 1996  
RELATIVE TO SEWER USER CHARGE  
(FY 2009)

Be It Ordained by the city council of the city of Worcester as follows:

1. Chapter 5, § 26 of the Revised Ordinances, as most recently amended, is hereby further amended by deleting paragraph (g) in its entirety and inserting in lieu thereof the following:

(g) The commissioner shall establish annually a sewer charge. Charges to users shall be levied at the same time as the water use billing.

<u>Sewer User Charge (per ccf)</u>	
Minimum Charge	\$10.00
Basic Rate	\$4.27

2. This amendment shall be effective as of July 1, 2008 and shall apply to all bills issued after such effective date in accordance with subsection (f) of section sixteen of Chapter Seven of the Revised Ordinances of 1996.

In City Council June 24, 2008  
Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.

A Copy. Attest:

David J. Rushford, Clerk  
*David J. Rushford*  
City Clerk

**Amendment 9175**

AMENDMENT TO THE PREVIOUSLY ADOPTED ORDINANCE RELATIVE TO CERTAIN PERMIT AND INSPECTION FEES FOR THE CITY SQUARE PROJECT

Be it Ordained by the City Council of the City of Worcester, as follows:

Chapter two of the Revised Ordinances of 1996, section twenty-nine B, is hereby amended as set forth below, in order to coordinate the timing of the permit fee payments under subsection (c) of section twenty-nine B with the revised schedule for permitting and reconstruction of the CitySquare Project (entailing reconstruction of the former Worcester Center (a.k.a. Worcester Common Outlets) Mall property) as embodied in the First Amendment to Development Agreement between the City of Worcester and Worcester Renaissance, LLC, dated June 2008:

- (1) The date established in § 29B(c)(ii) for the second fee payment of \$750,000, is hereby extended to the earlier of June 15, 2009 or upon the Commencement of the Enabling Work;
- (2) The date established in § 29B(c)(iii) for the third fee payment of \$1,000,000, is hereby extended to the earlier of June 15, 2011, or upon the Commencement of the Parking Garage; and
- (3) The date established in the final paragraph of § 29B for the expiration of the CitySquare Project Permit Fees Ordinance (§ 29B, c. 2, Rev. Ord. 1996) is hereby extended to June 30, 2018 and the fees otherwise then in effect shall apply to any permits issued after such date.

Except as amended hereby, Chapter two of the Revised Ordinances of 1996, section twenty-nine B remains in full force and effect.

**In City Council June 24, 2008**

**Passed to be ordained by a yea and nay vote of Eleven Yeas and No Nays.**

**A Copy. Attest:**

**David J. Rushford, Clerk**  
*David J. Rushford*  
**City Clerk**